responsibility of the legal profession—a responsibility that none of us can avoid.

Another problem which is closely related and in some ways is even more difficult is the defense of those who do not fall in the category of indigent but who have limited resources available for their defense. Over 40 percent of our families have incomes of less than $5,000 a year. These families cannot bear the cost of a complicated and extended trial and appeal which could easily equal their annual income.

Indeed, it can be the case that an indigent defendant, through the services of a first-rate volunteer attorney, may receive a better defense than one who pays a small fee and gets incompetent or indifferent counsel.

Legal services, particularly defense in criminal cases, are not like houses or automobiles where those with more money can buy better products without affecting the basic functioning of society. When one defendant cannot afford a complete defense, justice is being rationed.

Today the cost of adequate defense can be high. Psychiatric and highly technical issues require expensive research, investigation, and expert witnesses for the defense as well as for the Government.

In a recent case in which the Government was involved the defendant spent nearly $500,000 in legal and accounting fees in defending himself. He is now in prison. But the point is that we must be certain that the average citizen of a family income of $5,700—the national median—can afford comparable efforts to protect his freedom. There is no question that a man prepared to spend $500,000 is far more likely to retain his freedom than a man who can afford only a few thousand dollars.

The amount of money which can be expended on defense should not affect the outcome of the trial. If justice is priced in the marketplace, individual liberty will be curtailed and respect for law diminished.

There is no easy answer to this problem; again, it lies with the bar itself. Professor Allen's committee is continuing its study of the problem and will have recommendations to make before the end of the year. I would like to ask for recommendations and ideas from the bar. I think they could be most important, and from all of this I would hope that we would develop methods whereby our finest legal talent would not be reserved solely for those who could pay without difficulty and an occasional indigent defendant.

I would hope from this effort that leading lawyers and legal scholars would be in court on a regular basis pleading for defendants of moderate circumstances. As long as a man is handicapped before the bar of justice because of his poverty, our task as lawyers is not done.

I thank you for this opportunity to speak.

Fortunately, no generation of lawyers as yet has lost that desire for a just society that will preserve the dignity of man and his individual right to search for happiness.

This association and its kindred associations in our 50 States and hundreds of counties and cities will, I feel sure, keep that desire aflame.

Let us as lawyers—as Americans—as Theodore Roosevelt said, "Boldly face the life of strife, resolute to do our duty well and manfully; resolute to uphold righteousness by deed and by word; resolute to be both honest and brave, to serve high ideals, yet use practical methods. Above all, let us shrink from no strife moral or physical."

A bar dedicated to the preservation of our basic freedoms, pledged to the search for truth, is a main bulwark of our democratic society which can aid mightily to achieve what President Kennedy recently described as a "world of law and free choice, banishing the world of war and coercion."

Washington Report

EXTENSION OF REMARKS
OF

HON. BRUCE ALGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 4, 1962

Mr. ALGER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following newsletter of September 1, 1962:

WASHINGTON REPORT

(By Congressman BRUCE ALGER, Fifth District, Tex., Sept. 1, 1962)

USE OF PUBLIC MONEY FOR A SLUSH FUND

The House this week passed the Public Works Coordination and Acceleration Act (H.R. 10113), a fancy title for the creation of the biggest slush fund in history, putting more power in the hands of President Kennedy and, as usual, the people pay the bill. The motion to recommit (the only way to defeat the measure) was defeated 221 against (202 Democrats, 19 Republicans), 192 for recommittal (148 Republicans, 44 Democrats). A vote for recommittal was a vote against the bill. I voted to recommit. This legislation creates a $900 million fund (all of it deficit spending) for all types of public works projects, including swimming pools, golf courses, and ski slides. Congressman LES ARENDS, the minority whip, called it the "most depressing and reckless legislation ever passed by the House."

Arguments for: (1) Permit the President at his discretion to authorize public works projects (pump-priming philosophy) to provide employment. (2) To provide money for projects in key Democratic districts to help elect Democrats.

Arguments against: (from the minority report) (1) The bill will not accomplish its stated purpose to provide immediate work for a substantial number of unemployed and underemployed persons. (2) The Congress should not authorize the appropriation of additional funds to construct public works for the purpose of creating jobs when unobligated balances in existing programs amounting to billions of dollars are available. (3) Expenditure of $900 million for unauthorized projects will necessitate deficit financing and will contribute to the necessity of increasing the public debt. (4) Federal share of the cost of public works projects of State and local governments will increase to 50 or 75 percent. (5) Local public works projects which are now eligible for interest-bearing loans, under the new law, will be able to secure grants and gifts. (6) It delegates to the President the constitutional power and authority of Congress to authorize new Federal grant-in-aid programs and projects. Another step toward dictatorship.

The conclusion of the minority report on this bill is so important that I feel it must be quoted at length: "In our opinion this bill is ineffective to provide immediate employment, and over a period of 2 years, or more, at best it will create jobs for only about 3 percent of the persons now unemployed. Whereas, the bill purports to offer hope for the millions now unemployed, in reality, it will only bring more disillusionment and despair when its inadequacies become known. Enactment of this bill is entirely too high a price to pay, both in dollars and in the unwise delegation of congressional powers to the President, in return for the few temporary jobs which will be created too late to be of any immediate assistance to those who now desperately need work, and cannot find employment.

"The real end result of this bill is to give the President a book of blank checks with authority to draw $900 million from the Treasury of the United States and to use such amounts thereof as he decides for the construction of projects he selects in localities of his choosing. Under the authority of this bill the President can approve or withhold funds for projects in such a manner as to coerce Members of Congress to support his New Frontier program, or to buy political support for favored candidates for public office, or to pay political obligations. When the people of this country learn what this bill does and does not do, they will strongly resent the political contrivance to give the President a political slush fund to be paid for by the taxpayers.

"Thomas Jefferson warned against traveling the road down which the present administration is taking the country, when he said: 'I place economy among the first and most important virtues, and public debt as the greatest danger to be feared. To preserve our independence, we must not let our rulers load us with perpetual debt. We must make our choice between economy and liberty, or profusion and servitude. If we run into such debts, we must be taxed in our meat and drink, in our necessities and our comforts, in our labors and in our amusements. If we can prevent the Government from wasting the labors of the people, under the pretense of caring for them, they will be happy.' " I stand with Thomas Jefferson.

For my part, effective representation by me of a self-respecting electorate, Dallas County, means—refusal to: (1) Endorse fiscal irresponsibility, (2) contribute to deficit financing, (3) create more inflation, (4) increase Federal boondoggle and political spending, all of which means I and the people of Dallas cannot be bought nor intimidated by Federal aid—whether it be Dallas Love Field, Dallas Federal Building, or Dallas public works—offered or denied. This is the issue—the battle is joined—the Democrats have chosen their side, and no Democrat candidate can effectively and responsibly represent his district warring with his President (the head of his party) and all his congressional leaders. It is now for the people to decide and this fall is the time for decision.

SENATE

WEDNESDAY, SEPTEMBER 5, 1962

The Senate met at 10 o'clock a.m., and was called to order by Hon. E. L. BARTLETT, a Senator from the State of Alaska.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father, God, amid all the harsh voices of this vast, agitated world save us from the tragedy of listening most to the crashing earthquake and the whirlwind and of missing Thy call in the hush of the still, small voice. In these solemn times of the supreme test of America's creed, when determined foes deny and defy the very conceptions and aspirations which to us, nurtured in liberty, make life precious and sacred, may this Nation, under God, out of all our differences, have a new birth of freedom.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

May we never falter when the choice is between honor and selfish, safety-first calculation. Beyond the strategy of this global struggle, with which so much said and done in this forum has to do, may we see the depth and scope of His historic spiritual drama of the centuries and may that vision turn its blood and sweat and tears into final glory in the victory of decency and right. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 5, 1962.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. E. L. BARTLETT, a Senator from the State of Alaska, to perform the duties of the Chair during my absence.

CARL HAYDEN,
President pro tempore.

Mr. BARTLETT thereupon took the chair as Acting President pro tempore.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, September 4, 1962, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that the President had approved and signed the following acts and joint resolution:

On August 29, 1962:

S. 1849. An act for the relief of Stephen S. Chang;

S. 2686. An act for the relief of Stepanida Losowskaja; and

S. 3491. An act to amend the Atomic Energy Act of 1954, as amended, and for other purposes.

On August 31, 1962:

S. 538. An act to amend section 205 of the Federal Property and Administrative Services Act of 1949 to empower certain officers and employees of the General Services Administration to administer oaths to any person;

S. 1005. An act to amend section 10 and section 3 of the Federal Reserve Act, and for other purposes;

S. 1781. An act for the relief of the heirs of Lt. Col. James Murray Bate (deceased) and Maj. Billie Harold Lynch (deceased);

S. 2256. An act to amend section 5 of the War Claims Act of 1948 to provide detention and other benefits thereunder to certain Guamanians killed or captured by the Japanese at Wake Island;

S. 2736. An act for the relief of Arie Abramovich;

S. 2835. An act for the relief of Sieu-Yoeh Tsai Yang;

S. 2862. An act for the relief of Mai Har Tung;

S. 2876. An act to extend for 1 year the authority to insure mortgages under sections 809 and 810 of the National Housing Act;

S. 3016. An act to amend the act of March 2, 1929, and the act of August 27, 1935, relating to load lines for oceangoing and coastwise vessels, to establish liability for surveys, to increase penalties, to permit deeper loading in coastwise trade, and for other purposes;

S. 3039. An act for the relief of Bartola Maria S. La Madrid; and

S.J. Res. 132. Joint resolution extending recognition to the International Exposition for Southern California in the year 1966 and authorizing the President to issue a proclamation calling upon the several States of the Union and foreign countries to take part in the exposition.

On September 5, 1962:

S. 981. An act to extend certain authority of the Secretary of the Interior exercised through the Geological Survey of the Department of the Interior, to areas outside the national domain;

S. 1208. An act to amend Public Law 86–506, 86th Congress (74 Stat. 199), approved June 11, 1960;

S. 2008. An act to amend the act of September 16, 1959 (73 Stat. 561; 43 U.S.C. 615s), relating to the construction, operation, and maintenance of the Spokane Valley project;

S. 2399. An act to provide for the establishment of the Frederick Douglass home as a part of the park system in the National Capital, and for other purposes;

S. 2916. An act to change the names of the Edison Home National Historic Site and the Edison Laboratory National Monument, to authorize the acceptance of donations, and for other purposes;

S. 2973. An act to revise the boundaries of Capulin Mountain National Monument, N. Mex., to authorize acquisition of lands therein, and for other purposes;

S. 3112. An act to add certain lands to the Pike National Forest in Colorado and the Carson National Forest and the Santa Fe National Forest in New Mexico, and for other purposes;

S. 3174. An act to provide for the division of the tribal assets of the Ponca Tribe of Native Americans of Nebraska among the members of the tribe, and for other purposes;

S. 3327. An act to make eligible for assistance under the public facility loan program certain areas where research or development installations of the National Aeronautics and Space Administration are located; and

S. 3574. An act to extend the International Wheat Agreement Act of 1949.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nominations of Morris Miller and Marjorie McKenzie Lawson, to be judges of the juvenile court of the District of Columbia, which nominating messages were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 2760. An act for the relief of Yuk-Kan Cheuk; and

S. 3026. An act for the relief of Jeno Nagy.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 1362. An act for the relief of Calogera Virone Messina;

H.R. 1480. An act for the relief of Mrs. Agnes Geidl;

H.R. 1483. An act for the relief of Priscillo Jose Sisson and Evelyn Sisson;

H.R. 1598. An act for the relief of Michael Anthony Dedetsinas;

H.R. 2079. An act to amend the Classification Act of 1949 to authorize the establishment of hazardous duty pay in certain cases;

H.R. 2675. An act for the relief of Santa Giammalva;

H.R. 2977. An act for the relief of Kyoko Stanton;

H.R. 2978. An act for the relief of Rosa and Rita Quattrocchi;

H.R. 4034. An act for the relief of Lt. Comdr. David V. Kyrklund;

H.R. 7123. An act for the relief of Mrs. Takako Coughlin;

H.R. 7438. An act for the relief of Anna Caporossi Crisconi;

H.R. 8483. An act for the relief of Arminda P. Viseu;

H.R. 8517. An act to grant emergency officer's retirement benefits to certain persons who did not qualify therefor because their applications were not submitted before May 25, 1929;

H.R. 8855. An act for the relief of Marie Silva Arruda;

H.R. 9472. An act for the relief of Janina Tekla Gruszkos;

H.R. 9578. An act for the relief of Annie Yasuko Bower;

H.R. 9893. An act for the relief of Tadeusz Sochacki;

H.R. 10002. An act for the relief of civilian employees of the New York Naval Shipyard and the San Francisco Naval Shipyard erroneously in receipt of certain wages due to a misinterpretation of a Navy civilian personnel instruction;

H.R. 10199. An act for the relief of Lester A. Kocher;

H.R. 10316. An act for the relief of Leopoldo Rocha Canas and Teofilo Caoile Servito;

H.R. 10605. An act for the relief of Joan Rosa Orr;

H.R. 10881. An act for the relief of Major Singh Sunga;

H.R. 10897. An act for the relief of Joseph Hammond;

H.R. 10936. An act to permit the Postmaster General to extend contract mail routes up to 100 miles during the contract term;

H.R. 11059. An act relating to the effective date of the qualification of Bricklayers Local 45 (Buffalo, N.Y.) pension fund as a qualified trust under section 401(a) of the Internal Revenue Code of 1954;

H.R. 11799. An act defining the interest of local public agencies in water reservoirs constructed by the Government which have been financed partially by such agencies;

H.R. 11951. An act to provide for the transportation of mail by aircraft upon star routes within the Commonwealth of Puerto Rico;

H.R. 12402. An act for the relief of Concetta Maria, Rosetta, and Tomasino Mangiaracina;

H.R. 12451. An act to authorize reimbursement to appropriations of the U.S. Secret Service of moneys expended for the purchase of counterfeits;

H.R. 12539. An act for the relief of Leslie O. Cox and other employees of the Federal Aviation Agency;

H.R. 12650. An act for the relief of Luella O. Babb;

H.R. 12907. An act for the relief of Dr. Mehmet Vecihi Kalaycioglu; and

H.J. Res. 730. Joint resolution to authorize the President to proclaim May 15 of each year as Peace Officers Memorial Day and the calendar week of each year during which such May 15 occurs as Police Week.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated:

H.R. 1362. An act for the relief of Calogera Virone Messina;

H.R. 1480. An act for the relief of Mrs. Agnes Geidl;

H.R. 1483. An act for the relief of Priscilio Jose Sisson and Evelyn Sisson;

H.R. 1598. An act for the relief of Michael Anthony Dedetsinas;

H.R. 2675. An act for the relief of Santa Giammalva;

H.R. 2977. An act for the reliew of Kyoko Stanton;

H.R. 2978. An act for the relief of Rosa and Rita Quattrocchi;

H.R. 4034. An act for the relief of Lt. Comdr. David V. Kyrklund;

H.R. 7123. An act for the relief of Mrs. Takako Coughlin;

H.R. 7438. An act for the relief of Anna Caporossi Crisconi;

H.R. 8483. An act for the relief of Arminda P. Viseu;

H.R. 8855. An act for the relief of Marie Silva Arruda;

H.R. 9472. An act for the relief of Janina Tekla Gruszkos;

H.R. 9578. An act for the relief of Annie Yasuko Bower;

H.R. 9893. An act for the relief of Tadeusz Sochacki;

H.R. 10002. An act for the relief of civilian employees of the New York Naval Shipyard and the San Francisco Naval Shipyard erroneously in receipt of certain wages due to a misinterpretation of a Navy civilian personnel instruction;

H.R. 10199. An act for the relief of Lester A. Kocher;

H.R. 10316. An act for the relief of Leopoldo Rocha Canas and Teofilo Caoile Servito;

H.R. 10605. An act for the relief of Joan Rosa Orr;

H.R. 10881. An act for the relief of Maj. Singh Sunga;

H.R. 10897. An act for the relief of Joseph Hammond;

H.R. 12402. An act for the relief of Concetta Maria, Rosetta, and Tomasino Mangiaracina;

H.R. 12451. An act to authorize reimbursement to appropriations of the U.S. Secret Service of moneys expended for the purchase of counterfeits;

H.R. 12539. An act for the relief of Leslie O. Cox and other employees of the Federal Aviation Agency;

H.R. 12650. An act for the relief of Luella O. Babb;

H.R. 12907. An act for the relief of Dr. Mehmet Vecihi Kalaycioglu; and

H.J. Res. 730. Joint resolution to authorize the President to proclaim May 15 of each year as Peace Officers Memorial Day and the calendar week of each year during which such May 15 occurs as Police Week; to the Committee on the Judiciary.

H.R. 2079. An act to amend the Classification Act of 1949 to authorize the establishment of hazardous duty pay in certain cases;

H.R. 10936. An act to permit the Postmaster General to extend contract mail routes up to 100 miles during the contract term; and

H.R. 11951. An act to provide for the transportation of mail by aircraft upon star routes within the Commonwealth of Puerto Rico; to the Committee on Post Office and Civil Service.

H.R. 8517. An act to grant emergency officer's retirement benefits to certain persons who did not qualify therefor because their applications were not submitted before May 25, 1929; to the Committee on Finance.

H.R. 11059. An act relating to the effective date of the qualification of Bricklayers Local 45 (Buffalo, N.Y.) pension fund as a qualified trust under section 401(a) of the Internal Revenue Code of 1954; and

H.R. 11799. An act defining the interest of local public agencies in water reservoirs constructed by the Government which have been financed partially by such agencies; to the Committee on Public Works.

LIMITATION OF DEBATE DURING MORNING HOUR

On request of Mr. MANSFIELD, and by unanimous consent, statements during the morning hour were ordered limited to 3 minutes.

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the following committees and subcommittees were authorized to meet during the session of the Senate today:

The Rivers and Harbors Subcommittee of the Committee on Public Works.

The Permanent Subcommittee on Investigations of the Committee on Government Operations.

The Committee on Interior and Insular Affairs.

The Production and Stabilization Subcommittee of the Banking and Currency Committee.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORTS ON RESERVE COMPONENTS CONSTRUCTION AUTHORIZATION PROGRAM

A letter from the Deputy Assistant Secretary of Defense (Properties and Installations), transmitting, pursuant to law, reports on the location, nature, and estimated cost of facilities projects proposed to be undertaken for the respective Reserve components of the Armed Forces (with accompanying reports); to the Committee on Armed Services.

REPORT ON DEPARTMENT OF DEFENSE PRIME CONTRACT AWARDS TO SMALL AND OTHER BUSINESS FIRMS

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense prime contract awards to small and other business firms, for the fiscal year 1962 (with an accompanying report); to the Committee on Banking and Currency.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien, and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 575. An act to authorize the Secretary of the Interior to construct, operate, and maintain the upper division of the Baker Federal reclamation project, Oregon, and for other purposes (Rept. No. 1996).

By Mr. CHAVEZ, from the Committee on Public Works, with amendments:

H.R. 12135. An act to authorize appropriations for the fiscal years 1964 and 1965 for the construction of certain highways in accordance with title 23 of the United State Code, and for other purposes (Rept. No. 1997).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a statement prepared by the Senator from New Mexico [Mr. CHAVEZ] relating to the bill (H.R. 12135), just reported by him, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CHAVEZ

This bill authorizes a continuation of the Federal-aid highway program for the regular systems for the fiscal years 1964 and 1965. It also authorizes additional amounts for roads on Federal lands for those years, and additional funds for completion of the Inter-American Highway and the Rama Road.

The bill also provides for payment of relocation assistance to families and businesses displaced by Federal-aid highway construction.

On April 5, 1962, the President sent to Congress his message on the transportation system of the Nation. This message contained several important recommendations as to the role of highways in our transportation system.

On April 6, 1962, the Secretary of Commerce submitted to the Congress a draft of proposed legislation to implement the recommendations of the President concerning Federal-aid highway legislation.

H.R. 12135 follows very closely the recommendations of the Secretary of Commerce on Federal-aid legislation.

The bill authorizes $950 million for each of fiscal years 1964 and 1965 for the regular A–B–C systems.

It authorizes funds for roads for administration, development, utilization, and protection of our public lands and reservations, at slightly increased amounts over previous years. These amounts are believed necessary for proper development of our natural resources, and to take care of the increased use of our forests, parks, and public lands.

It authorizes the use of secondary highway funds on urban extensions of the secondary system, transportation planning in urban areas, and for highway planning and research.

The committee believes that the provisions of H.R. 12135 will keep our A–B–C highway program in balance with the other highway programs, to meet the needs of present traffic, and will go a long way toward meeting the recommendations of the President on transportation and Federal-aid highways.

BILLS INTRODUCED

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

By Mr. SMITH of Massachusetts:

S. 3693. A bill for the relief of Emilia Suppa; to the Committee on the Judiciary.

By Mr. LONG of Missouri:

S. 3694. A bill for the relief of Dr. Dunet Francois Belancourt; to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 3695. A bill for the relief of the Standard Spring Co.; to the Committee on the Judiciary.

By Mr. CLARK:

S. 3696. A bill for the relief of Nicoloas Louvaris; to the Committee on the Judiciary.

TRADE EXPANSION ACT OF 1962—AMENDMENT

Mrs. NEUBERGER. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (H.R. 11970) to promote the general welfare, foreign policy, and security of the United States through international trade agreements and through adjustment assistance to domestic industry, agriculture, and labor, and for other purposes, and ask that it be printed and appropriately referred. I ask unanimous consent that the amendment be held at the desk for 5 days to receive signatures of additional cosponsors.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and referred to the Committee on Finance; and, without objection, the amendment will be held at the desk, as requested by the Senator from Oregon.

NOTICE OF HEARING ON NOMINATION OF WALTER C. SAUER, OF THE DISTRICT OF COLUMBIA, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF WASHINGTON

Mr. ROBERTSON. Mr. President, as chairman of the Committee on Banking and Currency, I wish to give notice that a public hearing has been scheduled for Friday, September 7, at 10 a.m., in room 5302, New Senate Office Building, on the nomination of Walter C. Sauer, of the District of Columbia, to be First Vice President of the Export-Import Bank of Washington, vice Tom Killefer.

All persons who wish to appear and testify on this nomination are requested to notify Mr. Matthew Hale, chief of staff, Senate Committee on Banking and Currency, room 5300, New Senate Office Building, telephone Capitol 4-3121, extension 3921.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. WILEY:

Excerpts from address prepared by him for delivery over Wisconsin radio stations on the weekend of September 1-2, 1962, on the subject of "Major U.S. Economic Goals."

By Mrs. NEUBERGER:

Article entitled "A Complicated Maze Puzzles the Consumer," written by David Hamilton and published in the September 1962 issue of Frontier magazine, dealing with various consumer protection proposals.

Mr. MANSFIELD. Mr. President, is there any further morning business?

The ACTING PRESIDENT pro tempore. Is there any further morning business? If not, morning business is closed.

REVENUE ACT OF 1962

Mr. MANSFIELD. Mr. President, I move that the unfinished business be laid before the Senate and be made the pending business.

The motion was agreed to; and the Senate resumed the consideration of the bill (H.R. 10650) to amend the Internal Revenue Code of 1954 to provide a credit for investment in certain depreciable property, to eliminate certain defects and inequities, and for other purposes.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DIRKSEN. Mr. President, I submit an amendment, and send it to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 391, between lines 21 and 22, it is proposed to insert a new section 127.

Mr. DIRKSEN. Mr. President, I ask that the further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment submitted by Mr. DIRKSEN is as follows:

On page 391, between lines 21 and 22, insert the following new section:

"SEC. 127. AMENDMENT TO TITLE I OF THE SOCIAL SECURITY ACT RELATING TO STATEMENT OF FINANCIAL STATUS OF CLAIMANTS FOR MEDICAL ASSISTANCE FOR THE AGED.

"Paragraph (11) of section 2(a) of the Social Security Act is amended (1) by striking out 'and' and at the end of clause (D), (2) by striking out the period at the end of clause (E), and (3) by adding after clause (E) the following new clause:

"'(F) prior to October 1, 1963, may, and on and after such date, shall, provide that any statement required of a claimant for medical assistance for the aged, if made in writing and signed by the claimant, shall, insofar as such statement relates to the financial status of such claimant, be presumed by such State agency to be factually correct for purposes of determining his eligibility for such assistance.'"

On page 391, line 22, strike out "27" and insert in lieu thereof "28".

TAX-REDUCTION VIEWS OF CHAMBER OF COMMERCE OF THE UNITED STATES

Mrs. NEUBERGER. Mr. President, on July 23 I had printed in the CONGRESSIONAL RECORD a statement by the Chamber of Commerce of the United States which set forth in detail the chamber's view that taxes should be reduced promptly. Although the statement was most explicit, I noted one portion lacking substantiation. That statement read:

Another implication of the problem of high tax rates is that every needless public expenditure should be eliminated. As of now, approximately 20 percent of our gross national product is required to keep the Federal Government running. Since we must continue to meet every demand which the cold war imposes, all other types of expenditures must be scrutinized rigorously to meet the highest standard of the public interest.

Of course, I concur with much of what was said in this statement, as do most Senators. I am certain that all Senators feel that every needless public expenditure should be eliminated. We would be remiss in our duties if we knowingly voted large expenditures which were unneeded. Therefore, I think that Senators who vote for the appropriation of sums which the chamber might call "needless" must only disagree with what can be considered the "highest standard of the public interest."

In seeking to understand what the chamber of commerce might consider the "public interest," I wrote Mr. Ladd Plumley, president of the chamber of commerce, and asked for a specific statement of what expenditures the chamber thought constituted "needless" public expenditures.

The chamber responded with a large notebook crammed with copies of the many letters the chamber has written urging their specific point upon the many chairmen of appropriation subcommittees of both Houses. Included were copies of testimony by the chamber before congressional committees, urging budget reductions.

I noted a summary of recommendations, with small comments on the chamber's position on each. But, after much searching, I came to the sad conclusion that the chamber had failed in many instances to provide any detailed explanation, beyond this small summary, of a recommended reduction. For example, I was immediately struck by the note attached to the recommendation of a $105 million reduction in the special milk fund which would result in the termination of this program. In explaining the chamber's reasons for urging this reduction, they state:

Federal funds should not be appropriated for this program as it is the responsibility of the States.

This statement constitutes the complete explanation of the chamber's feeling on this program. Yet I would have appreciated a comment which would explain in more detail why the program is considered a waste when it does much to help reduce surpluses in milk and actually provides the Government with a

means of insuring our children an inexpensive supplement to their diet. I also would have appreciated a recommendation for the establishment of an equally effective program at the State level.

I was even more dismayed to discover that the chamber would recommend a $108 million decrease in the amounts appropriated to the school lunch program, a program which provided 2,470,400,000 meals to 13.5 million needy children last year. Their reduction is recommended with this justification:

> The portion of this appropriation used for cash payments to the States is opposed as an unnecessary Federal school subsidy.

To further complicate the oft-stated view that $5 billion can be cut from the fiscal 1963 Federal budget, the chamber has recommended the elimination of more than a half billion dollars in aid to education funds which have not yet been authorized by the Congress. They recommend the elimination of the $600 million proposed for general aid to public schools, and the elimination of the $29 million that will be spent if the conference committee recommends passage of an aid to higher education bill with the provisions of the Federal scholarship program intact. Of course, I and many other Senators find aid to education in the public interest. We voted for the higher education bill because of our concern that, under existing programs, we may not be meeting the tremendous needs of our exploding school age population.

In further examination of the reductions recommended by the chamber in expenditures of the Department of Health, Education, and Welfare, I noted that the chamber favored a $5.6 million reduction in the budget request of the Food and Drug Administration. Of course, this request was made in March before the public was informed of FDA's role in preventing the use of thalidomide, but it still did not answer many arguments that are being made for the need to expand the Food and Drug Administration so that it can keep pace with the mounting complexities of food and drug proposals.

I have mentioned many of the smaller programs of the Federal Government which are considered by the chamber to be needless in whole or part. I think that other Senators would probably wonder, as I did, what sort of recommendations the chamber of commerce made for reduction of needless expenditures in the Department of Agriculture and the Department of Defense, the two areas where the greatest amount of Federal funds are spent.

When I examined the Department of Agriculture, however, I began to see the pattern of the chamber's budget philosophy. I have already mentioned the special milk program which it opposed, and the school lunch program which the chamber felt should be reduced. These programs represent a proposed expenditure of only $275 million of the approximately $6 billion that will be appropriated for the activities of the Department of Agriculture. Yet the reduction of $213 million in the budget of these two minor but important activities would amount to almost half of the $505 million reduction proposed by the chamber of commerce.

Further, the chamber would favor the reduction of approximately $60 million in the program for the removal of surplus agricultural commodities. With the ever-mounting cost of commodity storage that results from our increasing productivity, I would have thought that the chamber would approve of programs designed to reduce the immense agricultural surpluses so that we could lower the cost of the vast price support and crop storage programs.

I must confess that I found the recommendations of the chamber of commerce rather disappointing. It seems that the chamber has been acting a lot like the eastern dude who tried to clear some forest land for a cabin with a pocket knife. He rid the area of a lot of brush, but he finally decided that the tall pines represented his major problem.

ELIMINATION OF A DOMESTIC TRADE BARRIER

Mrs. NEUBERGER. Mr. President, when the Senate considers the abolition of trade barriers between the United States and the Common Market, I think it appropriate that it also consider the abolition of a trade barrier between the mainland United States and the Commonwealth of Puerto Rico. This barrier is the Jones Act, the Merchant Marine Act of 1936, which prohibits the shipment of goods from one American port to another on any but American-flag vessels.

In 1951, American-flag vessels carried 13½ million board feet of lumber from U.S. Pacific Northwest ports to Puerto Rico. During the same year, British Columbia shipped only slightly over 1 million board feet of lumber to Puerto Rico. In 1962, Puerto Rico will consume nearly 80 million board feet of Pacific Northwest lumber. Not a single board foot will come from the United States. This disastrous loss of a natural and traditional market can be definitively traced to a single cause; there is no American vessel available to carry lumber from mainland United States to Puerto Rico, nor is there any conceivable prospect of new vessels entering the trade.

The Commerce Committee has favorably reported S. 3614, which would suspend Jones Act restrictions on shipments of lumber to Puerto Rico as well as Atlantic coast ports. The producers of southern pine have objected to those provisions of S. 3614 affecting shipments to Atlantic coast ports, fearing an adverse effect upon traditional markets for southern pine. As a consequence of their objections, the Commerce Committee has agreed to defer action on S. 3614 until hearings can be held in the Southern States. But there is no justification for delaying action on the Puerto Rican lumber problem for another year, particularly in view of the distressed condition of the Northwest lumber industry.

The southern pine producers have expressed no objection to the removal of Jones Act restrictions on lumber shipments to Puerto Rico, since no southern pine, or for that matter no U.S. lumber, is presently being shipped to Puerto Rico.

Moreover, the Committee for a National Trade Policy, a principal advocate of the trade bill, has called for correction of the Jones Act inequities while deploring the alternative recourse to restrictive quotas on Canadian lumber. Insofar as Jones Act reform diminishes pressure for restrictive quotas, such reform advances general goals of the trade bill.

I intend to propose an amendment to the trade bill which would permit the Secretary of Commerce to waive Jones Act requirements with respect only to shipments of lumber from the mainland United States to Puerto Rico.

I ask unanimous consent to have included in the RECORD at the close of my remarks a table entitled, "Waterborne Shipments From Pacific Northwest to Puerto Rico, 1951–62."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Waterborne shipments from Pacific Northwes' to Puerto Rico, 1951–62

	Total	Oregon and Washington	Percent	British Columbia	Percent
	Thousand feet	*Thousand feet*		*Thousand feet*	
1951	14,616	13,457	92.07	1,159	7.93
1952	26,853	18,707	69.67	8,146	30.33
1953	38,485	22,258	57.84	16,227	42.16
1954	40,663	11,471	28.21	29,192	71.79
1955	42,388	8,600	20.29	33,788	79.71
1956	55,171	13,234	23.99	41,937	76.01
1957	48,197	3,643	7.56	44,554	92.44
1958	47,334	841	1.78	46,493	98.22
1959	63,276	450	.71	62,826	99.29
1960	67,500	478	.71	67,022	99.29
1961	73,249	----------	0	73,249	100.00
1962 (6 months)	39,305	----------	0	39,305	100.00

Source: Reports of Pacific Lumber Inspection Bureau, Seattle, Wash.

ALLEGED INVITATION TO KHRUSHCHEV TO VISIT OHIO

Mr. YOUNG of Ohio. Mr. President, all Senators receive, daily, many, many letters and telegrams. The junior Senator from Ohio, representing, as he does, a constituency of 10 million men, women, and children, receives his share.

Frankly, Mr. President, I am very happy to receive these hundreds of letters and telegrams each day from my constituents. They help me in the per-

formance of my duty. Any Senator who works with fidelity and zeal—and I am sure all of us do, in trying our best to represent our constituents—is helped greatly by having the benefit of the views of the people he represents.

However, Mr. President, today I received some letters and telegrams rather startling in nature.

One telegram begins as follows:

Prevent Khrushchev visiting Ohio.

That is typical of this group.

A letter makes the startling statement:

The Columbus Citizens Journal—

A leading newspaper in my State—

reported that the State agriculture director had extended an invitation to Khrushchev to visit the State of Ohio next month, with an appearance at the national plowing contest at Wilmington, Ohio.

This according to a letter I hold in my hand.

Another telegram is to the same effect; but it goes further, and states that Khrushchev has been invited by an official of our State government to visit the State of Ohio and "to judge" the national plowing contest at Wilmington, Ohio.

I have not had the opportunity to verify these statements of my constituents or the news item which allegedly appeared in a fine newspaper, the Columbus Citizen Journal, a member of the Scripps-Howard league of newspapers, that the agriculture director of my State has invited Khrushchev to come to Ohio to appear at the national plowing contest at Wilmington.

However, I am definitely opposed to his judging or appearing at any plowing contest in Ohio or elsewhere in our country. Of course, if I were certain he would be plowed under, instead of judging the contest, that would be another matter. But as I am not certain that he would be plowed under, I feel we have had enough face-to-face confrontations with this leader of the Communist world, whose aggressive tactics day after day are endeavoring to keep us off balance, and to threaten world peace.

May I say, in this connection, that I never took kindly to the fact that he was a house guest of the President of the United States back in September 1959. I was even more outraged over that fact when, a few months later, in May of 1960, Khrushchev, confronting President Eisenhower in Paris, was guilty of making bombastic and insulting utterances to the President, who had been his host at Camp David.

It was with a feeling of humiliation that at that time I read in various newspapers that during the insults and blasts of Khrushchev against our Chief Executive, "President Eisenhower listened in dignified silence." I know that nothing like that would occur in this administration. I do not want it ever to happen again that our leader, the President of this Nation, is subjected to an insult from the lips of a Communist dictator.

I speak briefly on this matter because I hope the reports coming in from my constituents are without any foundation whatever. It would seem to me that an official of our State government, whether he occupied the office of director of agriculture or any other position, would be subject at least to a rebuke if he took it upon himself to invite Khrushchev to our State. Frankly, if it is a fact that the director of agriculture of the State of Ohio extended an invitation to Khrushchev to come to Ohio and judge a national plowing contest at Wilmington, I consider that he is so lacking in judgment that his resignation should be called for.

I take this occasion to repudiate any invitation of this sort, if it was actually extended, and to express my horror over the thought of such a visit.

MIRACLE IN CHICAGO

Mr. LONG of Hawaii. Mr. President, all too frequently we hear of events that reflect discredit on law enforcement agencies. We hear these things because it is newsworthy to report that a policeman is charged with wrongdoing, while few would bother to read about how the same man had spent 15 years conscientiously patrolling a beat.

It is therefore gratifying to me that the Lion for September 1962 has published an article describing the renovation of a great police department. This article, entitled "Miracle in Chicago," tells of the progress made in law enforcement in our second city during the past 2 years. The facts in this case reflect great credit on the administration of Mayor Richard Daley and add to the already lustrous reputation of Police Superintendent O. W. Wilson.

This article is a reminder to all that police administration is a developing science, a documentation of the effectiveness and honesty with which large city police departments can be operated, a challenge to other communities to help themselves as Chicago has helped itself, and, above all, a statement of respectful thanks to the thousands of dedicated police officers who protect us every day of our lives.

I ask unanimous consent that the full text of this challenging article be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MIRACLE IN CHICAGO

(By Karl Detzer)

At 12:55 a.m., one snowy Thursday night last January, a Chicago cook going home from work saw two men jump from a dark doorway across the street and pistolwhip a passerby. As the man fell, the cook ran into a bar, grabbed a telephone and dialed PO–5–1313. A voice answered at once: "Chicago police, Officer Brown."

"Stickup going on," the cook shouted. "Guns."

"Where?" Brown asked. The cook panted, "Division, near Larrabee." Brown pressed a button on his headquarters dispatch desk and a foot pedal under it.

"Armed robbery in progress," he reported calmly, giving the address. Radios in 28 cars patrolling north of the Loop repeated the words; a sergeant and four patrolmen swung five cars around and stepped on the gas. Still listening, they raced through dark streets without flashing lights or sirens.

Dispatcher Brown kept the cook on the telephone, repeating what the bartender, watching through a window, told him was happening across the street. Brown broadcast, the patrol cars heard every word. Tape recorders preserved all the voices.

Thirty seconds had passed since the cook dialed the police number. The thugs kicked their victim and turned him over to empty his pockets. Within 45 seconds, a dozen police cars were approaching the spot. Two of them, coming swiftly but quietly from east and west, suddenly swung toward the pair bending over the man sprawled in the snow. A sergeant and a patrolman leaped out, barked, "Drop your guns. Hands on top of car. Hold it. Don't move." Now three more cars arrived and poured their lights on the thugs. Three officers had the robbers covered, the fourth was searching them. The victim, his head bleeding, was getting to his knees. Handcuffs clicked.

It had been 1 minute. The lieutenant spoke into his microphone:

"All in hand at Division and Larrabee," he said. "Send ambulance and squadrol." Chicago calls its paddy wagons "squadrols." They roam like other police cars, answer radio calls to bring in prisoners. This adds 22 street patrols to each 8-hour shift.

The dispatcher stamped the file card he started when the cook yelled, "Stickup." From that instant until the lieutenant stopped the chase, just 85 seconds had elapsed. That is fast action anywhere; in Chicago where 3 years ago citizens sometimes waited an hour or more for a police car, it is a miracle.

Responsible for this plan that starts police cars toward a violent crime without formal dispatch is the new superintendent of police, a title that corresponds to commissioner elsewhere. He is 62-year-old Prof. Orlando Winfield Wilson, who resigned as dean of the University of California School of Criminology to tackle this tough but challenging job. The new superintendent long has had an international reputation as a doctor of sick police departments. Time and again he has been called not only to American cities but to Europe, to help reduce crime and solve police problems.

With a 3-year contract at $30,000 a year in his pocket—the highest salary paid an American policeman—a life insurance policy bought by the city, a handsome budget, and the mayor's guarantee of no political interference. Wilson arrived March 2, 1960, in the midst of the worst police scandal in Chicago's scandalous police history. Suspicion and open hostility of hundreds of policemen, most local politicians, and a large segment of the public, awaited him.

The moment was propitious. Chicago finally was shocked by a police scandal. The "burglars in blue" filled the newspaper headlines and made meaty subject matter for many a sermon. Two months earlier, eight patrolmen and a notorious ex-convict were arrested, charged with wholesale burglary of business houses on the officers' beats.

In their patrol cars, these policemen hauled away tens of thousands of dollars worth of radio and television sets, guns and outboard motors, tires and batteries, draperies, and furniture. In summer they stole air conditioners, in winter large amounts of radiator antifreeze. And after many of these raids, their superiors sent them to investigate their own crimes.

Other criminal acts by policemen came to light. Three officers were charged with extorting $1,200 from a burglar, two others with juggling evidence to protect a well-known thief. Three were locked up for dragging a citizen out of his home, robbing him of $513, and tossing him from a car. Another policeman was killed while driving a stolen car. A gang of patrolmen stole $14,000 worth of shoes from a warehouse.

The public also was shocked by the story of a ranking police lieutenant who spent a gay summer romping around Europe with Tony Accardo, believed by many officials to

be a top boss of the old Capone syndicate. Investigation showed that Accardo, who lived in a highly respectable Chicago suburb in the former home of a wealthy manufacturer, had from time to time as business associates such unsavory characters as Jack "Greasy Thumb" Guzik, who lived in the same pleasant neighborhood, Frank "The Enforcer" Nitti and Murray "The Camel" Humphreys. But this did not seem to interfere with the police official's close friendship with Tony.

Chicago seethed. Mayor Richard J. Daley, a practical politician who had fought his way up from the precincts, was as shocked by it all as the meekest housewife. He appointed an outstanding committee to help him clean up the mess and find a new chief. One member represented finance and industry, one organized labor. Three were among the most outstanding authorities in the Nation on crime suppression and police organization. Virgil Peterson, ex-FBI man who long has headed the Chicago Crime Commission, Frank Kreml of Northwestern University Traffic Institute, and Professor Wilson were the experts. They named Wilson chairman.

"Find the best chief in America," Daley said. "I'll hire him. Forget politics. If anyone tries to interfere let me know."

The committee interviewed many candidates, including some of the Nation's most famous chiefs. Some refused the job; others did not measure up to it. Finally Wilson gave up and was leaving for home when the other committeemen told the mayor that their chairman was the man to appoint. Wilson demurred. Only when Mayor Daley assured him of complete independence, a budget large enough to bring the force up to standard, and the 3-year contract, did he accept.

Wilson brought to Chicago both fine academic theory and solid, practical experience. In his 21 university years he often took leave to help create or clean up police departments at home and abroad. As a young man earning his university degree he had been 4 years a patrolman on the Berkeley, Calif., force, under the late Chief August Vollmer, who is universally recognized as the father of modern police science.

Vollmer called Wilson his best officer. In 1925, when the small Fullerton, Calif., force needed a chief, Vollmer recommended him. Itching under political pressure, Wilson quit. After 2 years as an investigator for a finance company, he became chief at Wichita, Kans. In 11 years there he made an international reputation. Convinced that 1 smart, well-educated officer was worth 10 stupid ones, he made entrance examinations tough, appointed only intelligent young college men and sent them to study at the local university. Many oldtime policemen snorted at the idea of college graduates covering beats.

But promotion was fast in Wichita, and thanks to their intelligence and training, and to Wilson's methods, the Wichita police solved 50 percent more burglaries than the national average and jailed more criminals.

"What could a professor learn in Wichita that can help Chicago?" angry politicians and policemen demanded. One thing was the value of a complete and honest modern records system. Smart police officials know that no department can be better than its records, and for years Chicago's were notoriously bad. Thousands of crimes went unreported; others were "downgraded" to make a burglary a mere "unauthorized entry," or a vicious assault a "street disturbance." Both are only misdemeanors, not felonies, and so are not listed in crime reports. The old trick looked fine on paper but made streets and homes no safer.

When Wilson put in an honest records system, Chicago's crime rate in many categories rose 150 percent, and enemies of police reform yelled that this proved that Wilson's methods encouraged crime. But the FBI settled that. It refused to use the previous year's false figures for comparison in its 1961 uniform crime report.

At Wichita, Wilson startled oldtime policemen with his innovations. There he sent bright young officers to visit all new families in town that moved to their beats. The police explained local traffic rules, told how to get help from hospitals, police, or firemen, things all newcomers wanted to know. The policemen made it clear they came as friends.

Then they left forms for the householders to fill out. They listed and described—with serial numbers where possible—every piece of the family's jewelry, all watches, furs, bicycles, radios, typewriters, household appliances, phonographs, and cars.

"Just in case they happen to be stolen," the policemen explained, "we'd know precisely what to look for."

For obvious reasons Wilson did not try this in Chicago. But under his plan, the department does record and file every big or little police action for possible future use. Already it is proving valuable in the fight on crime. But this naturally adds to paperwork, which officers resent, although most of it is done by civilian employees.

Policemen do get one good break in this regard. Instead of having to peck out their arrest and other reports on station house typewriters before they go home after 8 hours on their beats, they carry in their cars folders of blank forms that cover every situation any patrolmen may face. A fatal accident, a bent fender, a noisy radio annoying the neighbors, a lost child, a dog bite, a broken window, a snatched purse, even "one down in the gutter"—each incident must be reported briefly on a simple form by the officer who handles it. Before he leaves the scene he fills in numbered squares on the report in pencil, telling who, what, where, when, how, and why.

Later, from any public telephone, he dials a police recording room and reads aloud the numbers of the squares he has filled and the information in them. It takes only a minute or two, and policemen call this "beeping it in." When an officer hangs up, his dime is returned. Reports pour in by the thousands, are recorded on tape, to be transcribed by pool stenographers. Some oldtimers resent this innovation, for they sometimes have difficulty reading their own notes aloud. But most young officers prefer it to the old time-consuming chore after patrols were over.

Electric computers in the planning division—a Wilson innovation—at headquarters scan all crime reports, classify them, match them to one another and convert them into patterns for the big maps of the city that hang in the crime analysis section. For example, should a dozen reports in 10 days concern a left-handed sneak thief in five-and-dime stores, or robberies in one section of town several nights a week by a man 6 feet 2 inches tall, or burglars who break into radio shops at 5 in the morning, crime patterns emerge on the maps.

The Division Street robbery reported by the cook is an example of how the system works. Electronic computers and other scientific instruments found that 21 previous holdups were the work of 2 men, 1 short and shabby, the other medium height and neatly dressed. They always jumped from dark doorways and hit their victims on the head with guns. All these crimes, analysis showed, occurred between midnight and 2 in the morning on Thursday or Friday nights, and all in a 2-square-mile area north of the Loop.

Patrol and detective divisions and the task force, another new Wilson idea, immediately were notified. The task force consists of 450 carefully picked and well-trained officers who work in plain clothes or uniform, afoot or in some 80 cars, many of which have no police markings. They are used on special assignments, sometimes to serve as decoys, or where an area needs a high concentration of patrols.

The first Thursday night after the pattern appeared on the planning division map, eight task force cars were sent to the division street area to prowl with and back up regular patrols. This did the trick; within an hour the tip came in from the cook, the police got their men.

Wilson has changed the department physically as well as in operation methods. One innovation that is universally popular among the citizens is the communications division, where the new emergency telephone and radio dispatch system cost $1.8 million. It's worth very penny of it when lives depend on saved seconds and accurate direction. Anyone, anywhere in town, who dials the emergency number automatically and instantly reaches the particular headquarters desk that controls police cars in the area where the call originated. No operator or other third person is involved. The officer who answers these calls uses the same headset to listen to the public and to direct cars. This saves time and reduces possibility of error.

Wilson divided Chicago into eight radio dispatch zones, each with its own three-man desk or "console" in the big headquarters room where dispatchers handle emergencies. Zone dispatchers can receive three calls at once; if more arrive at one time the others shift, automatically, to a group of desks where other dispatchers handle them. Each dispatcher faces a map of his own zone plus parts of those adjoining it, with all cars clearly shown on their beats. If a car is out of service for any reason, its light on the map goes out, remains out until it reports back for duty.

The people like the change. Pride in the new department is supplanting the old pride in the city's wickedness. Two years ago a visiting reporter heard expressions of doubt that the new regime at headquarters could or should succeed. Today he hears taxicab drivers say: "No cop has asked me for a handout in a year," and housewives report: "The police were at the door by the time I hung up the telephone."

For the first time, Chicago officers are undergoing modern in-service training. Last year 6,500 of them went back to school for an average 88-hour week each, and studied not only such technical matters as crowd control and rules of evidence, but ethics and human rights. This year it is planned that every policeman will get a week at school.

A thousand recruits sweated out the hard 13-week training course before they won their badges. They learned fast. Of 2,110 men who wanted to enter one school, only 145 could pass the new, stiff mental, moral, psychological, and physical standards. And not all of these lasted out the rigorous work and discipline of the school.

Despite what he has done for the department, Wilson has enemies in the ranks and among higher officers. How many there are no one knows; enough, certainly, to create problems. About 600 men resigned or requested quick retirement in the new chief's first 2 years, some for legitimate reasons, some to avoid facing investigations. They probably still have friends in uniform. There is growling, too, among old captains, lieutenants, and sergeants, for seniority is less important than it once was.

Some officers no doubt chafe under Wilson's rigorous honesty and long for the bad old days when traffic cops collected $5 bills and patrolmen picked up radios, bottles, and tenspots from businessmen on their beats. The former chief had been an absolutely honest man; he still is on the force, cut back to his permanent rank. But he lacked Wilson's fervor that annoys some of his men.

Wilson's reply to a policeman's question at a meeting shocked those who had hoped he would "soften up." He had warned the force about "accepting gratuities" when an officer asked how large a gift must be to be turned down.

"A 10-cent cup of coffee," Wilson snapped, his face grim.

Every member of the department has had at least one pay rise under Wilson, patrolmen's salaries going up 7½ percent, those of higher ratings more than that. There were 950 promotions last year, 414 of them moving up from patrolman to sergeant. However, many soft and useless jobs were ended, and men with only political pull were dumped out of their featherbeds. That made enemies.

Wilson closed 17 obsolete stations, cutting the total to 21, and plans to get rid of another soon. The reduction hurt the pride of captains who for years had been the czars of their own backyards. But the move sent 180 policemen from desk jobs to much-needed patrol; had that many additional men been hired, their salaries would have come to about $1 million a year. At the same time, 400 new women crossing guards relieved more officers for actual police duty, and Wilson put 600 new civilians to work at desk jobs in place of patrolmen needed on the streets.

The Chicago crime rate has fallen. No one division is responsible for the change. The whole department accomplished it. Wilson refuses to relax; crime may rise again temporarily. The rate of arrests for serious offenses jumped; the percentage of robberies solved was up more than 25 percent.

When Wilson finished the second year of his contract last March, with only 12 months to go, reporters asked him about his plans for the future. He'll tighten up the organization, he replied, continue to streamline it, attack crime on all fronts. He'll step up the war on "organized crime" that is just well started, get rid of the syndicate and professional gangs. He'll try to cut juvenile delinquency, send gamblers packing, work with Federal agencies on narcotics, improve race relations, strive with his fine men to give the Chicago police a worldwide reputation for integrity, intelligence, hard work and human understanding.

"Can you do all that in 1 year?" a reporter asked.

"It will take several years," Wilson replied without batting an eye. "But we'll do it." He did not mention the contract that ends next March, a day toward which his enemies look forward hopefully.

The people of Chicago have had more than enough of "burglars in blue," of lieutenants who pal around with hoodlums, of shakedowns, payoffs, and ticket fixes, enough civic disgrace. They want the "Old Professor" to keep on running their police department.

VILHJALMUR STEFANSSON

Mr. YOUNG of North Dakota. Mr. President, tomorrow's history, with the emergence of great men and great deeds, is being written today. Much of today's history was written by men of greatness, one of whom was Vilhjalmur Stefansson, a Manitoban by birth but a North Dakotan by his own choosing, to the eternal gratitude of people from my State.

When we speak of history, we sometimes confine ourselves to that realm which most closely affects us—our community, our State, our Nation, a continent. This man, Vilhjalmur Stefansson, was the world's foremost authority on that section of the North American Continent known as the Arctic.

Mr. Stefansson, who suffered a stroke and died August 26 at Hanover, N.H., left behind him a contribution to Arctic history that will live on and on, long after most of us here have left this life.

Like many fine North Dakotans, he was born of Icelandic parents, at Arnes, Manitoba, and moved at the age of 15 months with his family to a farm in Dakota Territory, near what is now the community of Mountain, in Pembina County, N. Dak. He was raised on that farm and it was to provide the foundation for a great life. He attended the University of North Dakota, at Grand Forks, though he graduated from the University of Iowa in 1903. He studied also at Harvard, received honorary degrees from Harvard, Iowa, Michigan, and Iceland, and was saluted by many scientific and geographical societies. Among his many distinctions was serving as president of the New York Explorers' Club for 5 years.

It was the University of North Dakota with which Vilhjalmur Stefansson was most closely affiliated after he had established himself as a famed explorer. It was also the University of North Dakota which had expelled him, during his undergraduate days, for failing to attend to his duties.

Destined to become one of the university's most famous students, he was also, probably, its most mischievous. His pranks while a student there are legendary and recalled frequently by both students and faculty members.

But while it was the University of North Dakota which expelled him, he harbored no ill feelings. He wrote once, "North Dakota is my university because it was the first, and because I was there 6 years. The State is my State because I lived in it 21 years. My early associations are with the State and some of my dearest memories are bound up with the university."

The University of North Dakota bestowed an honorary degree on him in 1930 when he gave the baccalaureate address during spring commencement exercises. His latest return to North Dakota was in 1958, when he delivered a lecture at a University of North Dakota convocation. He lectured frequently in North Dakota, and made many new friends. The Honorable Gudmunder Grimson, retired North Dakota Supreme Court judge, was Mr. Stefansson's roommate at the University of North Dakota, and one of the few North Dakotans who knew him well as a young man. Others are Tryggvi Bjarnason of Mountain.

Tryggvi Bjarnason recalled the only time in "Villie" Stefansson's life that he was not able to get where he was going and was balked in doing what he started to do. "That was the time he tried to corner a skunk in a hollow log. The effort was something less than successful," Bjarnason said.

While there are few oldtimers who actually remember Mr. Stefansson's early days in Pembina County, Mayor Arnold Christianson said, "This community deeply mourns the death of its most distinguished son."

Among his many contributions to science and what is now history are his prediction years ahead of the fact that the North Pole would become a crossroads for air travel between America and Europe, and that submarines would travel under the Arctic icepack.

He spent 10 winters and 13 summers in the Far North in the 15 years prior to his retirement in 1919 from active exploration. Since 1947 he had been Arctic consultant at Dartmouth College and curator of the Stefansson Collection of Polar Literature.

The collection, some 25,000 bound volumes and 45,000 manuscripts, is hailed as the Western World's largest library about the polar regions. His own writings were prodigious—some 24 books and 400 articles about the Far North, covering anthropology, geopolitics, economics, language, medicine, ethnography, and religion.

An editorial in the August 29 Bismarck Tribune hails Vilhjalmur Stefansson as "one of the keenest intellects of his age, a man whose mind made him a peer of contemporaries such as Albert Einstein and other geniuses of this century."

Mr. Stefansson's contributions were more than as a historian, explorer, and writer. The defense of this country from the continent's northern perimeter is today based in large part on the concept of Stefansson's explorations and his findings.

Vilhjalmur Stefansson had completed the first draft of his autobiography just a week before the stroke that led to his death. This, certainly, will be a vital part of the rich works of this extraordinary man, and it is my fervent hope that some capable writer will be able to complete this document.

My State, this Nation, and I am sure, Canada, mourn the death of this Viking-like Icelander who contributed so much to world history as an explorer, historian, writer, philosopher, scientist, and geographer. He deserves fully the inclusion among that rare group which is called the modern great.

I ask unanimous consent to have several editorials and articles from North Dakota newspapers with reference to Vilhjalmur Stefansson printed in the RECORD as a part of my remarks.

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

DEATH TAKES FAMED NORTH DAKOTA FIGURE AT 82

HANOVER, N.H.—Vilhjalmur Stefansson, one of the last dogsled explorers and also one of the world's foremost Arctic scientists and historians, died Sunday at 82.

The explorer, born in Manitoba of Icelandic parents, predicted years ahead of the fact that the North Pole would become a crossroads for air travel between America and Europe. He also foresaw that submarines would travel under the Arctic icepack.

Stefansson, who once thought of making poetry a career, spent 10 winters and 13 summers in the Far North in the 15 years prior to his retirement in 1919 from active exploration. Since 1947 he had been Arctic consultant at Dartmouth College and curator of the Stefansson Collection of Polar Literature.

Dartmouth boasts that the collection—25,000 bound volumes and 45,000 manuscripts is the Western World's largest library about the polar regions.

Stefansson suffered a stroke a week ago at a dinner for an old friend visiting Dartmouth, Eske Brum, chief of Denmark's Ministry for Greenland. He died early Sunday at Mary Hitchcock Hospital.

Only a week before his stroke, Stefansson completed the first draft of his autobiography.

He wrote some 24 books and more than 400 article about the Far North. His work covered anthropology, geopolitics, economics, language, medicine, ethnography, and religion.

The Stefansson collection began with 300 books given to him by the American Geographical Society of New York. In 1953 Dartmouth purchased the collection from the explorer.

Stefansson's first major Arctic expedition took him to the MacKenzie River Delta in Canada. When the expedition's ship became icebound and could not meet him, the explorer spent a winter with the MacKenzie Eskimos. He adopted their clothes, food, and work habits and studied their language.

Shortly after Stefansson's birth at Arnes, Manitoba, his family moved to the Dakota Territory. Stefansson first attended the University of North Dakota, then transferred to the University of Iowa, where he was graduated in 1903. From 1903 to 1906 he studied comparative religions and anthropology at Harvard but took time for two expeditions to Iceland.

Between 1913 and 1918 Stefansson commanded a Canadian expedition that spent 5 years north of the Arctic Circle. On this journey he discovered five islands claimed for Canada. Later the Canadian Board on Geographical Names named an island off the northeast shore of Victoria Island for Stefansson.

In 1941 the 61-year-old bachelor married Evelyn Schwartz Baird, his research assistant. Mrs. Stefansson now is librarian of the Stefansson collection. There are no children.

Stefansson was also noted for his "caveman" diet which he advocated after living with the Eskimos. The diet consists of an abundance of meat, including fat, nonstarchy vegetables and few if any carbohydrates.

"After all, the cavemen lived on it for a million years," he said.

In 1958, the University of North Dakota, which had expelled him for mischievousness in 1901, honored him as featured speaker at the university's 75th anniversary academic conference and convocation.

Stefansson, known on the campus as a prankster, was asked to leave the university "for failing to attend to his duties." A crowd of sympathizers and admirers pushed him to the railroad in a wheelbarrow.

He applied for reinstatement after his suspension, but was refused.

Later, Stefansson graduated from the University of Iowa and Harvard Divinity School. He found his interest in science greater than in the cloth, however, and took graduate work at Harvard in anthropology before winning worldwide fame as an Arctic explorer.

The noted explorer held no hard feelings for University of North Dakota after his expulsion.

"North Dakota is my university because it was the first and because I was there 6 years (including attendance at preparatory school)," he wrote later. "The State is my State because I lived in it 21 years. My early associations are with the State and some of my dearest memories are bound up with the university."

Once before he had returned to the University of North Dakota with honors, when he delivered the baccalaureate address at the 1930 commencement. He received an honorary degree from the institution which had expelled him at that time.

Although Stefansson was credited with being a pioneer in advocating the use of submarines and airplanes in polar exploration, he said they had taken the "romance" out of the Far North.

"It's just like taking a taxi now to fly over areas in the Arctic where we sledged years ago," he said.

Stefansson suggested use of a submarine under the Arctic ice to the late Sir Hubert Wilkins as early as 1913.

Wilkins attempted to reach the North Pole in a Navy submarine renamed the *Nautilus* but the effort failed, largely because the undersea craft was obsolete.

Years later the atomic subs *Nautilus* and *Skate* journeyed under the icepack in much the way Stefansson had suggested.

[From the Bismarck Tribune, Aug. 28, 1962]

NORTH DAKOTA FRIENDS MOURN STEFANSSON'S DEATH

MOUNTAIN.—A boyhood friend of Vilhjalmur Stefansson looked back over the years today to recall the time when "we were close neighbors and went to school together, played baseball together, and had a lot of fun."

Tryggvi Bjarnason, 82, was Stefansson's close friend. At his home here he heard the news of Stefansson's death at Hanover, N.H., Sunday with profound regret, as did all residents of the small Pembina County community where the great polar explorer grew to young manhood.

Bjarnason remembers Stefansson as "a brilliant student." The pioneer mountain resident called to mind the time when the teacher at the little school here had to take a brief leave of absence and called on Villie as Stefansson was known then, to teach while he was away.

Remembering Stefansson's high spirits and adventurous turn of mind, Bjarnason told of "the only time when Villie was not able to get where he was going or was balked in doing what he started to do. That was the time he tried to corner a skunk in a hollow log."

The effort was somewhat less than successful, Bjarnason said.

There are few here now who remember Stefansson. Time has dimmed the memory of some, and others remember him only faintly. Several, however, used the same word in describing the youthful Stefansson. The word was "brilliant."

Some oldtimers here recall that Stefansson, hard working though he was, was of a restless turn of mind that continually led him into adventures, either prankish or serious.

Mayor Arnold Christianson, 36, said Monday, "This community deeply mourns the death of its most distinguished son."

Christianson said he did not know immediately whether there would be community memorial services or other observances in tribute to the explorer.

Stefansson, who was confirmed in Vikur Icelandic Lutheran Church here, returned to his old home community 4 years ago. He visited with those of his old friends who still remain and spent considerable time reminiscing with Tryggvi and John Bjarnason, the oldest and closest friends of his boyhood.

At the same time he visited again with retired North Dakota Supreme Court Judge Gudmunder Grimson, who was his roommate at the University of North Dakota before the future explorer was expelled as "too mischievous."

In Bismarck Monday Grimson said Stefansson gave no sign in his university days of becoming a famous explorer, but was "very bright."

[From the Bismarck Tribune, Aug. 29, 1962]

STEFANSSON—A MODERN GREAT

Vilhjalmur Stefansson, born in a cabin on the shore of Lake Winnipeg and reared on a northeastern North Dakota farm, came to be regarded as perhaps the greatest of all authorities on the Arctic.

He was also looked upon as one of the keenest intellects of his age, a man whose mind made him a peer of contemporaries such as Albert Einstein and other geniuses of this century.

As a son of North Dakota, Stefansson has always been claimed with pride by his State, and he returned the pride with continuing interest in the homeland of his youth.

Perhaps his last visit here was in 1958, when he returned to the University of North Dakota to participate in the school's 75th anniversary academic conference.

Stefansson also had been a visitor to Bismarck, coming here in 1946 to speak under the auspices of the Bismarck High School journalism class.

To Stefansson, who spent much of his life learning the secrets of the Far North, the North Pole was the center of the earth in a strategic sense.

He believed this, and pounded his theory into the minds of all who would stop to hear, long before the day of atomic energy, long-range planes and intercontinental missiles.

Today the defense of the United States, and the attack plans of major nations, are in keeping with his concept; and what advances the United States has made in its defense posture along the lines of this concept are largely due to Stefansson's contributions.

But Stefansson was much more than an authority on one part of the earth. He was a scholar and a philosopher whose studies, thoughts and teachings have had a profound effect in many realms of learning.

The death Sunday of this son of North Dakota, the Viking-like descendant of Icelandic forebears, has removed from the world one of the great men of modern times.

[From the Grand Forks Herald, Aug. 27, 1962]

STEFANSSON DIES AT 82

Vilhjalmur Stefansson, 82, one of the world's foremost Arctic scientists and historians and one of the University of North Dakota's most noted former students, died Sunday at Hanover, N.H.

Stefansson suffered a stroke a week ago at a dinner for an old friend visiting Dartmouth College, Eske Brum, chief of Denmark's Ministry for Greenland. He died early Sunday at Mary Hitchcock Hospital.

Stefansson, who once thought of making poetry a career, spent 10 winters and 13 summers in the Far North in the 15 years prior to his retirement in 1919 from active exploration. Since 1947 he had been Arctic consultant at Dartmouth College and curator of the Stefansson Collection of Polar Literature.

COLLECTION LARGEST

Dartmouth boasts that the collection—25,000 bound volumes and 45,000 manuscripts—is the Western World's largest library about the polar region.

Only a week before his stroke, Stefansson completed the first draft of his autobiography.

He wrote some 24 books and more than 400 articles about the Far North. His work covered anthropology, geopolitics, economics, language, medicine, ethnography, and religion.

The Stefansson collection began with 300 books given to him by the American Geographical Society of New York. In 1953 Dartmouth purchased the collection from the explorer.

MARRIED IN 1941

In 1941 the 61-year-old bachelor married Evelyn Schwartz Baird, his research assistant. Mrs. Stefansson now is librarian of the Stefansson collection. There are no children.

DISMISSED FROM UNIVERSITY

He attended country schools, herded cattle for a living at 15 and taught country schools, saving money so that at 18 he entered the preparatory department at the University of North Dakota.

His career at the university ended in 1901 when he was dismissed for "mischievous" conduct.

He returned to the campus in the spring of 1930 to deliver the baccalaureate address at commencement exercises, June 8.

Twenty-eight years later he was a featured speaker at the University of North Dakota's 75th Anniversary Academic Conference, appearing November 3, 1958.

KNOWN AS PRANKSTER

During his student days, he was known on the campus as a prankster and was asked to leave the university "for failing to attend to his duties." A report at the time said that "a crowd of sympathizers and admirers pushed him to the railroad depot in a wheelbarrow."

He applied for reinstatement after his suspension but this was denied.

Later Stefansson graduated from the University of Iowa and Harvard Divinity School. However, he found his interest more in science than the clergy and entered the Harvard Graduate School, winning a fellowship in anthropology.

MADE FIRST TRIP

After completing his work at Harvard in 1906, he immediately left for an 18-month Arctic exploration under the auspices of Harvard and Toronto Universities. He was scheduled to join an expedition at the mouth of the Mackenzie River, but the party's ship was wrecked and Stefansson spent the winter of 1906–7 and the following summer among the natives of the Mackenzie Delta. He returned to the United States in October.

Six months later, he began a 53-month stay in the Arctic region, in the longest northland expedition on record. For a full year of that time, he lived with a tribe of "blond Eskimos" who had never before seen a white man. He also surveyed the Horton River, a stream 500 miles long, only the mouth of which was known up to that time.

VESSEL FROZEN

In 1913 Stefansson set out in an expedition on the *Karluk*, a steam whaler, commanded by Bob Bartlett, Admiral Peary's skipper, when the North Pole was discovered, with two sister ships to explore the Arctic. His vessel was frozen in at Point Barrow, the northernmost point of Alaska, and he was unable to make headway to his goal of the Beaufort Sea.

Stefansson and other members of his party disembarked from the *Karluk* (later carried out to sea by the ice floe, and crushed) joined a group from one of the other ships and carried on the expedition.

In the spring of 1915 Stefansson discovered new land near the 78th degree of north latitude and explored the area. In 1916 he found new islands west of Heiberg Island and the following year ran a line of soundings 100 miles northwest of Cape Isachsen, showing the polar ocean to be shallow in this region.

REPORTED ON EXPLORATION

Upon his return, the now internationally famous explorer announced he was through with his northern travels and undertook the publishing of a report of his expedition which took 5 years to prepare and filled 30 volumes.

Stefansson's one love was the Arctic. His pet peeve was persons who believed it was a barren, icy wasteland where no one could survive, let alone live comfortably. He blamed this idea on the ancient Greeks, "who," he said, "saw the earth as a symmetrical globe with everything to the north too cold to live in and everything to the south, too hot."

In October 1923 the noted explorer wrote the late Dean Joseph Kennedy of the university: "I am trying to abolish the frozen North in the sense in which the great American desert has been abolished."

FLIGHT POSSIBILITIES SEEN

Stefansson was the first to see the possibility of transpolar flights as a common occurrence, and he constantly ridiculed oldtime theories about existence in polar climates. He pointed out as foolish the belief that snow should be applied to frostbites.

"The face freezes at 40 below zero in the Arctic, why apply snow which is many degrees colder?" he asked.

Stefansson also said that wearing a beard as protection against the cold was disadvantageous because "it generally filled up with frozen moisture from the breath."

KEPT NO ILL FEELINGS

The noted explorer never kept any hard feelings about his dismissal from the university.

"North Dakota is my university because it was the first, and because I was there 6 years," he wrote, "The State is my State because I lived in it 21 years. My early associations are with the State and some of my dearest memories are bound up with the university."

He received an honorary degree in 1930 when he gave the baccalaureate talk at spring commencement exercises that year.

LEGEND RECALLED

The Stefansson legend of his student days at the university (taken from Dr. Louis Geiger's "University of the Northern Plains," a University of North Dakota history) has it that "once when finding University of North Dakota President Merrifield's carriage parked on a downtown street, he [Stefansson] climbed in and brazenly ordered the driver to take him out to Budge Hall.

"On another occasion he stole University Instructor Woodworth's easily recognizable storm buggy and abandoned it at the door of one of the most notorious 'houses' in town. And when discovered drinking beer on the front step of Budge Hall by President Merrifield, he invited the president to join him in a bottle."

Thus exited from the university scene a man destined to become a world-famous explorer within the next 20 years.

DISCOVERED VAST AREAS

Early press reports noted that although Stefansson discovered and mapped vast tracts in the northern areas, his greatest achievement was his demonstration by actual experience that explorers could live off the country in the polar regions, if they were adequately supplied with guns, ammunition and fishing tackle.

He demonstrated this once by living an entire month on meat to prove man can survive on animal flesh alone.

He received medals from the National, American, London, Paris, Philadelphia, and Chicago geographical societies and from the New York Explorers' Club of which he served as president for 5 years.

THANKED BY CANADA

The Canadian Government gave him official thanks in 1921 for his work and honorary university degrees were awarded by Harvard, Iowa, Michigan, and Iceland. Many scientific societies of Europe joined American organizations in recognizing him.

He was annoyed by the legend which has him pictured as a man of powerful physique and amazing endurance. Stefansson was actually less than 6 feet tall and never weighed more than 160 pounds in his exploring days.

"A long, lean Scandinavian," was one writer's observation.

Stefansson, who was born November 3, 1879, in a cabin on the shore of Lake Winnipeg at Arnes, Manitoba, was the son of Icelanders, among the first to emigrate to America from that country. When he was only 18 months old the family moved across the border, homesteading a farm near what is now Mountain, N. Dak., in Pembina County.

[From the Grand Forks Herald, Aug. 27, 1962]

OLD FRIEND RECALLS STEFANSSON AS BOY

MOUNTAIN, N. DAK.—A boyhood friend of Vilhjalmur Stefansson looked back over the years Monday to recall the time when "we were close neighbors and went to school together, played baseball together and had a lot of fun."

Tryggvi Bjarnason, 82, was Stefansson's close friend. At his home near here he heard the news of Stefansson's death at Hanover, N.H., Sunday, with profound regret, as did all residents of this Pembina County community where the great polar explorer grew to young manhood.

Bjarnason remembers Stefansson as, in his words, "a brilliant student." The pioneer mountain resident recalled the time when the teacher at the little school here had to take a brief leave of absence and he called on Villie, as Stefansson was known then, to teach the school while he was away.

Remembering Stefansson's high spirits and adventurous turn of mind, Bjarnason told of the only time when Villie was not able to get where he was going and was balked in doing what he started to do. That was the time he tried to corner a skunk in a hollow log. The effort was something less than successful, Bjarnason said.

TERMED BRILLIANT

There are few here now who remember Stefansson. Time has dimmed the memory of some and others remember him only faintly. Several, however, used the same word in describing the youthful Stefansson of that time. The word was "brilliant."

Stefansson, who was born November 3, 1879, at Arnes, Manitoba, near Lake Winnipeg, came with his parents to Dakota Territory when he was 18 months old and the family settled in this Icelandic settlement. Stefansson grew to young manhood here, working on the family farm about 2 miles southwest of Mountain.

ALWAYS ADVENTUROUS

Some oldtimers here recall that Stefansson, hard working though he was, was of a restless turn of mind that continually led him into adventures, either prankish or serious.

Mayor Arnold Christianson, 36, said Monday that "this community mourns the death of its most distinguished son. Not many of us knew him well, but every one of us had a strong sense of pride in his accomplishments and the many great things he did. It is our great loss, too."

VISITS OLD HOME

Christianson said he did not know immediately whether there would be community memorial services or other observances in tribute to the explorer.

Stefansson, who was confirmed in Vikur Icelandic Lutheran Church here, returned to his old home community 4 years ago. He visited with those of his old friends who still remain and spent considerable time reminiscing with Tryggvi and John Bjarnason the oldest and closest friends of his boyhood.

GRIMSON WAS SCHOOLMATE

Another old friend and schoolmate of Stefansson's, Judge Gudmundur Grimson, 83, of Bismarck, retired North Dakota Supreme Court justice recalls Stefansson as "too mischievous" for the University of North Dakota, which the two attended together.

Judge Grimson said that at the university Stefansson was known for "always sticking up for others" and noted that he was "very bright."

Judge Grimson, Stefansson and John Johnson of Benson, N. Dak., roomed together in a private home across the railroad tracks from the campus, where they did their own cooking. All three were reared in Pembina County.

Judge Grimson said that Stefansson gave no indication at that time of becoming a famous explorer.

[From the Fargo Forum, Aug. 28, 1962]

VILHJALMUR STEFANSSON, ARCTIC EXPLORER, DIES, RITES THURSDAY

Funeral services will be held at 2 p.m. c.s.t., Thursday at Rollins Chapel on the Dartmouth University campus at Hanover, N.H., for Vilhjalmur Stefansson, famed explorer and historian who died Sunday.

Stefansson, world famous as one of the greatest of the Arctic's explorers, had since 1947 been Arctic consultant at Dartmouth College and curator of the Stefansson Collection of Polar Literature there.

He suffered a stroke a week ago at a dinner for an old friend, Eske Brum, chief of Denmark's Ministry for Greenland who was visiting Dartmouth. Stefansson died early Sunday in a hospital.

He leaves Mrs. Stefansson, whom he married when he was 61.

Stefansson was a frequent visitor to North Dakota, and had many friends in the State. His latest trip to North Dakota was in 1958, when he spoke at a University of North Dakota convocation, which he had attended until he was expelled in his third year, a fact around which a considerable body of legend grew.

He also lectured frequently throughout North Dakota, and addressed the Fargo-Moorhead Executives Club in 1946.

Stefansson was born November 3, 1879, in a cabin at Arnes, Manitoba, on the shore of Lake Winnipeg. His parents were Icelanders. When he was 18 months old the family moved across the border homesteading a farm near Mountain, in what is now Pembina County, N. Dak.

He attended country schools and taught in them and herded cattle, saving money to enter the University of North Dakota at age 15.

Among the few in Mountain who remember him from his boyhood near Mountain are Tryggvi and John Bjarnason, his oldest friends.

They and others recollect him as hard working, but with an adventurous turn.

Stefansson was confirmed in Bikur Icelandic Lutheran Church in Mountain.

Mountain's Mayor Arnold Christianson said today, "This community deeply mourns the death of its most distinguished son." He said he did not know immediately whether there would be memorial or other services here.

Stefansson visited the Bjarnasons here 4 years ago. While in the State then, he also visited with retired North Dakota Supreme Court Judge Gudmunder Grimson, who was his roommate while they attended the University of North Dakota.

A body of legend has grown up around the reason for his being expelled from the University of North Dakota. He told a Forum reporter in 1958 the primary reason was because he harried a professor who had claimed the King James version of the Bible was perfect prose, by finding in the Bible an awkward phrase and using it as his own in a paper, later exposing it as a phrase from the Bible before the class.

He said he began to be "blamed for all the pranks on the campus," but added of subsequent legends: "There is some truth in most of them, much truth in some of them, and only a few are entirely false."

The University of North Dakota years later gave him an honorary degree, as did Harvard and universities in Iowa, Michigan, and Iceland.

He worked as a newspaper reporter in Grand Forks for a time, and also sold insurance, to make enough money to attend and graduate from the University of Iowa in 1903.

First intending to be a minister, Stefansson went to Harvard on a divinity scholarship. But his interest switched to science and he won a fellowship in anthropology.

He started his fieldwork in anthropology in 1904 in Iceland. A paper which he wrote on the discovery of Greenland led to his being invited to join an expedition in 1906 to Victoria Land, north of Canada.

En route to join the expedition, his ship was wrecked and Stefansson spent the winter of 1906–07 and the following summer among natives of the Mackenzie Delta.

A few months later he returned north again, in company with another explorer, and spent 53 months in the central Arctic coast of North America.

On that trip he spent a year with "blond Eskimos," who never had seen a white man before. He later theorized that those Eskimos might have been the descendants of Vikings who settled in Greenland.

He left in 1913 on another northern expedition, returning in 1918, after a score of members had died of exposure, disease, accident, and suicide.

On that trip, Stefansson discovered several islands in the Arctic.

He was among the first to predict the logic of plane flights over the Arctic.

He also predicted submarine journeys under the Arctic ice cap, and was credited by Sir Hubert Wilkins, another famous Arctic explorer, with giving Wilkins the germ of the idea for such a voyage, which Wilkins tried unsuccessfully in 1931.

Stefansson wrote 24 books and more than 400 articles, and only a week before his stroke he had completed the first draft of his autobiography. His works covered anthropology, geopolitics, economics, language, and religion.

In one recent book, "The Fat of the Land," Stefansson presented a full-scale argument for a meat diet—something he had favored for years after noting that Eskimos lived on such a diet and enjoyed excellent health.

He lived for a year on a meat-only diet at Cornell University.

Stefansson also ridiculed theories about the need for heavy clothing in cold regions, claiming that airtight, light clothing served the purpose much better.

Several of his many books became popular, perhaps the best known being "The Friendly Arctic," which was praised as "unique and important, the outstanding geographical publication of 1921," when he received a prize for it.

He was president of the New York Explorers Club for 4 years, and was honored by geographical societies throughout the world.

[From the Fargo Forum, Sept. 2, 1962]

STEFANSSON FOUND ADVENTURE IN EXPLORATION OF ARCTIC

Vilhjalmur Stefansson's accomplishments could have passed around half a dozen ordinary men. In addition, he had rare mental vision, and the just as rare ability to do his own thinking, even when it didn't jibe with that of his fellow men.

Reared on North Dakota's prairies, Mr. Stefansson gained fame as an Arctic explorer. He held our admiration, and perhaps our envy, by finding adventure in this workaday world.

He was one among those, and far from the least, who by dogsled and on foot explored the last unknown, the frigid regions of this earth. He mapped vast areas of the Arctic, and discovered several islands.

He was also a scientist and scholar of note, reaping honors in the fields of anthropology and geography. And he was a fertile author, who wrote until his death last Sunday at the age of 82.

Perhaps more important in the long view, Mr. Stefansson looked at the world with a fresh eye, made his own observations and stuck by them.

He predicted flights over the North Pole, and voyages by submarine under the pole; and envisioned the Arctic as a region fit for human habitation.

Mr. Stefansson scoffed at many prevelant theories and notions, among them that vegetables, fruit and breads were necessary to a healthy diet, and that men could not live in cold regions without burdening themselves with heavy clothing.

He lived for years in the Arctic, dressing comfortably and eating only meat, and returning to civilization as healthy and lean as when he had left. As to a meat diet, he lived primarily on meat for years and seldom had a sick day.

Mr. Stefansson also had a commanding personality, as any who met him even in his later years can verify. With his white mane of hair, strong convictions, amazing energy and agile wit, he was a man to long remember.

North Dakotans can well be proud of Vilhjalmur Stefansson, and can perhaps be pardoned for hoping that some part of his gifts were forged by growing up here.

REPLY TO THE EXTREME RIGHT

Mr. PELL. Mr. President, recently, I had an opportunity to review the remarks of Father Albert J. Nevins, president of the Catholic Press Association, made before the 89th annual forum of the National Conference of Social Welfare as they appeared in the June 1962, Anti-Defamation League Bulletin of B'nai B'rith.

In my judgment, Father Nevins' remarks represent one of the clearest and spirited replies to the extreme right that I have read. Father Nevins very correctly stresses that "too many of us are for anyone who is opposed to communism; we adopt them 100 percent. It may not matter that some other of his ideas are wrong or dangerous; he is anti-Communist and that is enough to give him the stamp of approval. And reversely, if the Communist is for something, no matter how good, we are against it."

Father Nevins brilliantly outlines many of the pressures and contradictions which our youth are faced with today and points out that elements by so-called new conservative movement "breed hate for fellow humans and contempt for authority."

Father Nevins points for a positive approach toward perfecting our democracy and living up to the responsibilities which our faith in God press upon us. I wholeheartedly agree with his observance that "we are not going to overcome evil with evil, but only with good. Lies, distortions, suspicions passed off as fact, slanders—this is the character of a great deal of conservative literature. No one is going to

convince me that hate and the division of the American people are the answers to today's problems."

Mr. President, I ask unanimous consent that Father Nevins' address entitled "Reply to the Extreme Right" be printed in full in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REPLY TO THE EXTREME RIGHT

(By Albert J. Nevins)

There is a phenomenon peculiar to the Catholic Church which happens every spring. It is the ritual known as the communion breakfast. How many cups of coffee are drunk, how many rolls are broken, and how many eggs are consumed would make an interesting statistic. But more staggering would be the number of words poured forth at these gatherings. And I am willing to wager that if some record were kept of these communion breakfast talks, you would find 7 out of 10 of them are on the single subject of communism.

The Catholic's preoccupation with communism is nothing new. It has been going on as long as I can remember. We have been conditioned to it from our youth. It has taken on the nature of a 20th century crusade—a crusade of words, but a crusade none the less. It has some very surprising results. All of us are against communism, but too many of us are for anyone who is opposed to communism; we adopt them 100 percent. It may not matter that some other of his ideas are wrong or dangerous; he is anti-Communist and that is enough to give him the stamp of approval. And reversely, if the Communist is for something, no matter how good, we are against it.

Please do not misunderstand me. Communism is an evil and godless system that seeks to subvert the world through propaganda, infiltration, subversion, false fronts, sabotage, terror, civil strife and treacherous diplomacy. As the late Justice Robert Jackson wrote in one of his Supreme Court opinions, "This Communist movement is a counterrevolution to the American Revolution, designed to undo the Declaration of Independence, the Constitution, and our Bill of Rights, and overturn our system of free, representative self-government."

The fact is that the Soviet Union challenges us in every field of endeavor. In 40 years, a once backward nation has become our leading competitor. The Soviets challenge us in education. They challenge us in missiles and in space. The Soviets challenge us in industrial superiority. They challenge us in economic competition for the underdeveloped areas of the world. They challenge us in fields of pure research. They challenge us in world propaganda.

There is an increasing tendency among the American people to think that we have arrived. We talk about new frontiers but we ride to them in air conditioned autos to the sound of FM radio. Dr. Grayson Kirk remarked recently, "Somewhere along the line we have become fat, smug, and spiritually anemic. We interpret the 'pursuit of happiness' to mean the pursuit of leisure. * * * Other people before us have been wrecked by indolence, self-seeking and a decay in national ideals."

One of the disturbing indications of this indolence has been the violent reaction of increasing numbers of our young people who are adopting extremely conservative positions. This anomaly plays havoc with many fixed ideas.

Conservatism was formerly the prerogative of age, associated with the time when one began to carry an umbrella and wear arch supports. It was a state of mind induced by satisfaction with one's life and opposed to any change in the modus vivendi. Youth on the other hand was the age for tilting lances at windmills. It was the area in life set aside for altruism—the time of promise, the moment for joy. There was a positive dedication to youth, perhaps not always mature, not always sensible, but ever challenging and inspiring.

Today we find youth retreating from the world of reality, withdrawing from any personal commitment with the problems of their times. There is an attempt to turn the clock back, to resurrect principles no longer valid in a nuclear world. How is this denial of youth's essential being to be explained? What forces create this metamorphosis? The answer, I think, lies in the world in which today's youth finds itself.

Our youth today is dwelling in what is the most hypocritical society of history. We profess equality and practice segregation. We proclaim our belief in good government but are apathetic to graft and corruption. We ban bingo and proscribe bookies but ignore extensive gambling controlled by racketeers or legalized at the track. College basketball fixes, scales that give short weight, disc jockey payola, fixed quiz programs, substitute hired brains to write one's thesis, mink coats and shakedowns, double standards, political platitudes that are meaningless—these and many, many more are enough to cause any integral idealist to want to turn away from the world in which he finds himself.

Add to this the intercontinental ballistic missiles aimed at our shores, international betrayals and broken promises, brush fire wars starting anywhere at the whim of the Communists, enslaved peoples, cosmonauts piloting sputniks over our heads, the insidious and never really challenged world perversions of the Reds, the infiltration of materialism and sublimated atheism into the bloodstream of the West, the hesitation and compromise of free nations when faced with a basic international moral problem—consider these and you will know why youth searches for principles of abiding value. Youth has not lost its idealism. It merely wishes to reject and withdraw from its present environment.

Today's youth looks for a vigorous answer to the problems of its times. Weary of evasions, compromises, words without meaning, the search of youth is a search for candor. Youth looks for leaders who will face up to the modern world without qualms, free of pressure, honestly. Youth is tired of talk, weary of platitudes, disgusted by the mess made by its elders. Its Holy Grail is that which is brave, bold, new. It searches for the voice of truth crying out in a 20th-century atomic wilderness.

And, in its inexperience, what does it find? Reeds shaken by the wind. Retailers of phrases, and dealers in remnants of remnants. Mossbacks who do not realize that a century ago the Civil War decided once and for all time the issue of States rights, and that World War II ended any possibility of American isolation.

This insecurity of youth in an even more insecure world causes a double flip that lands it in the ring of conservatism. Here is the new philosophy of idealism, the intellectual purification, the moral purge. Here is the reaction to the liberalism of the past. "Let us conserve the little good that is left to us," says the youthful conservative. "Let us return to those principles that made America great. Free enterprise. Climb high, climb far. Carry a big stick. The best governed is the least governed. America first, last and always. Business is business. Safe for democracy. Let the chips fall where they may."

Modern conservatism is a series of slogans—some without meaning, most negative. It is the adoption of a philosophy without any basic ideology, for if one follows the conservative arguments, it is quickly apparent that it is inconsistent, varying from issue to issue. Modern conservatism is color blind—everything is black and white, with no in-between shades; one is either for or against something wholeheartedly, there is no such thing as neutrality or distinctions; there are only extremes—left and right, liberal and conservative, Communist and anti-Communist.

What is particularly frightening in the new conservatism is that sections of it breed hate for fellow humans and contempt for authority. Accuse the Catholic liberal of what you will but I for one can find no instance where a Catholic liberal has contravened ecclesiastical authority. But one can cite many instances where Catholic conservatives have defied their bishops, ranging from New Orleans to Lafayette to Pittsburgh. I challenge Catholic conservatives to justify their positions from Catholic theology and social teachings as expounded by papal encyclical. I recall an instance where a reader of a magazine I edit objected to an editorial I wrote. I answered her with Catholic teaching. She replied that I was wrong. I then spent many hours getting quotations from papal teaching on the subject. But the correspondence came to an end when she replied that if the Holy Father had said that he also was wrong.

The extreme right refuses to admit the social doctrine of the church. When Mater et Magistra (Christianity and Social Progress) was published last year, the opinion of the radical right was epitomized by the National Review in its very clever headline, "Mater, Si—Magistra, No." When Father John Cronin of the Social Action Department of the National Catholic Welfare Conference published an objective study called "Communism: Threat to Freedom," he was vigorously attacked. Why? Because he contradicted the first principle of the extreme right which declares: "The danger is almost entirely internal, from Communist influence right in our midst and treason right in our government." Father Cronin had the temerity to suggest that the strong reaction sweeping our country against domestic communism should be turned toward the far greater danger of Communist subversion in Asia, Africa, and Latin America. To the conservative extreme this is heresy.

With conservatives of this type reasonable discussion becomes impossible. They will not move from fixed positions. Their leaders carry more weight than the Pope. Their publications are more authoritative than the New Testament. When Dwight D. Eisenhower is labeled a Communist, they offer no dissent. When the Foreign Policy Association is called a Communist front, the statement becomes infallible, to be accepted without question. This lunacy of the extreme right is just as dangerous to freedom as the subversion of the extreme left.

We are not going to overcome evil with evil, but only with good. Lies, distortions, suspicions passed off as fact, slanders—this is the character of a great deal of conservative literature. No one is going to convince me that hate and the division of the American people are the answers to today's problems. There can be no respect in any mind for a leading conservative magazine that prints an article ridiculing the Christian virtue of love or an article in praise of Machiavelli. There can be no respect for another magazine which brands prominent Americans who have contributed much to this country as "Communists." These mouthpieces for the conservative position are founded on negative principles, they are opposed to change on principle, they are intolerant of the principles of others and ready to damn by ridicule anyone who fails to agree with them. We will not defeat communism by fighting among ourselves.

The conservative extreme has its platform—a platform which makes anything of a social nature suspect as communistic.

Articles of this platform include these, among others: Repeal the income tax, get out of the United Nations, withdraw from NATO, end foreign aid, fight fluoridation of water, decentralize the National Government, stop Government interference with segregation.

It was Gerard Sherry, managing editor of the Central California Register, who observed that "fundamentally the conservative is sensitive to dangers, and the liberal is sensitive to opportunities." The conservative constructs defenses to maintain his position and he pushes the barricades out as far as possible. He tends to make absolutes out of relatives and to blur the distinctions between essentials and accidentals.

If we are going to succeed in our struggle against communism, we must reject all labels. We must maintain our independence to decide each issue on its own merits. We must know what we believe and the principles by which we are to live.

This is what I believe—I believe in the natural rights of man; I believe in the quality of men before God; I believe in human brotherhood; I believe in the eminent dignity of the human person, and the right of every man to lead his life in dignity; I believe in the Judeo-Christian concept of private property; I believe in the moral obligation to love one's country; I believe in the primacy of the common good; I believe in the liberty of men, opposed to totalitarianism; I believe in justice as a necessary basis for international life; I believe that charity is the keystone of life.

On the practical point of our defense against communism, a distinction must be made between external and internal subversion. We already have the organizations necessary to handle internal subversion—the House Un-American Activities Committee, the Senate Internal Security Committee, the FBI. We do not need the witchhunting committees that have appeared in the last few years. To meet the threat of external subversion, we must educate every American to understand the Communist ideology; we must maintain the military strength of our country and see to it that our allies remain strong, too. Foreign aid is not Communist doctrine—it is sound American policy.

We must see communism for what it is—an evil and godless system that seeks to subvert the world through propaganda, infiltration, subversion, false fronts, sabotage, terror, civil strife and treacherous diplomacy. But while we see it for what it is we must not apply its label to things and people indiscriminately.

Our people must know why they should be opposed to communism, not how to falsely brand prominent Americans who have contributed much to this country as "Communists." Our people must grasp the ideological reasons why they must be opposed to communism, that fundamentally the dichotomy between Marxism and our democracy involves the Communist's basic opposition to God and the annihilation of the fundamental Judeo-Christian traditions which founded our country.

Each of us must seek to awaken the conscience of America. Our community is our world. Start there—not by dividing and hating your neighbors, but by loving them. It is only love that has the power to re-create.

We will love our neighbors and those far away. We will love our friends and we will love our enemies. We will love Catholics, Jews, Protestants, the indifferent, Muslims, pagans, atheists. We will love all social classes, but especially those more in need of assistance. We will love those who scoff at us, those who despise us, those who persecute us. We will love those who deserve to be loved and those who do not deserve it. We will love as we try to understand, to sympathize, to esteem, to serve.

We will love with the fullness of God.

TOUGHER ANTI-RED POLICY IN CUBA

Mr. WILEY. Mr. President, the Soviet Communists—obviously at the request of Castro—are reportedly pouring more and more manpower and materials—including weapons—into Cuba.

This violation of peace in the Western Hemisphere cannot go unheeded—or unprepared for. Last week, I urged the Organization of American States to investigate the situation and to take any necessary action to contain this threat to peace.

The flagrant way in which the Soviets continue to pour troops, technicians, military, and other materials into Cuba, however, also requires, I believe, a redefinition of U.S. policy—and updating, perhaps, of the Monroe Doctrine.

The United States can—and should—I believe, declare its readiness to act—preferably in unison with the OAS, but, if necessary, unilaterally—against such military aggression to neighboring states.

The Soviets, too—if they continue this violation of the peace—may ultimately find that they have on their hands a military bastion that cannot go anywhere; for we should not—and must not—let it go anywhere in the Western Hemisphere; the burden of overarmaments will further jeopardize the already weak Cuban economy—requiring more Red economic assistance.

Militarily, Cuba represents no serious threat to the United States, for it could be snuffed out in a matter of minutes.

The real danger, however, lies in attempted reexport of armaments to other countries in Latin America; provocations—such as the firing on the U.S. naval training plane—disturbing the peace; and a general uneasiness with the existence of an alien, armed, wishfully aggressive Cuba in the Western Hemisphere.

In encouraging Soviet-aid policies, Castro, himself—a Red egomaniac—should also be reminded of the fate of other Castro types in Communist-dominated countries.

Now, he enjoys the position of a big frog in the Cuban pond.

If he encourages greater inflow of Communist materials and manpower, however, he may ultimately find himself a little—or extinct—frog in the Communist pond.

For peace in the Western Hemisphere—as well as to reassure our neighbors that we will not tolerate military action against them, then, I believe that we now should speak out with a clear, definitive warning against the Reds further threatening peace in the Western Hemisphere.

I ask unanimous consent to have the text of President Kennedy's statement on Cuba, as published in this morning's Washington Post, printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TEXT OF PRESIDENT KENNEDY'S STATEMENT ON SOVIET AID TO CUBA

All Americans as well as all of our friends in this hemisphere have been concerned over the recent moves of the Soviet Union to bolster the military power of the Castro regime in Cuba.

Information has reached this Government in the last 4 days from a variety of sources which establishes without doubt that the Soviets have provided the Cuban Government with a number of antiaircraft defense missiles with slant range of 25 miles which are similar to early models of our Nike.

Along with these missiles the Soviets are apparently providing the extensive radar and other electronic equipment which is required for their operation.

We can also confirm the presence of several Soviet-made torpedo boats carrying ship-to-ship guided missiles having a range of 15 miles. The number of Soviet military technicians now known to be in Cuba or en route—approximately 3,500—is consistent with assistance setting up and learning to use this equipment.

As I stated last week, we shall continue to make information available as fast as it is obtained and properly verified.

There is no evidence of any organized combat force in Cuba from any Soviet-bloc country; of military bases provided to Russia; of a violation of the 1934 treaty relating to Guantanamo; of the presence of offensive ground-to-ground missiles; or other significant capability either in Cuban hands or under Soviet direction and guidance.

Were it to be otherwise, the gravest issues would arise. The Cuban question must be considered as a part of the worldwide challenge posed by Communist threats to the peace. It must be dealt with as a part of the larger issue as well as the context of the special relationships which have characterized the inter-American system.

It continues to be the policy of the United States that the Castro regime will not be allowed to export its aggressive purposes by force or the threat of force. It will be prevented by whatever means may be necessary from taking action against any part of the Western Hemisphere.

The United States in conjunction with other hemisphere countries will make sure that, while increased Cuban armaments will be a heavy burden to the unhappy people of Cuba, they will be nothing more.

MARY GIBBS JONES, OF HOUSTON, PHILANTHROPIST AND WIDOW OF CABINET OFFICER, PASSES AWAY

Mr. YARBOROUGH. Mr. President, the death of Mrs. Mary Gibbs Jones, widow of the late Jesse H. Jones, of Houston, Tex., is a great loss to her city, State, and Nation. Mary Gibbs Jones was the widow of one of the seven persons from Texas who have served as Cabinet officers of the United States in our history.

Her love of helping others, expressed in many lasting ways, will always speak eloquently in her memory.

The Houston Press, a Scripps-Howard newspaper, said of her passing:

The name of Mary Gibbs Jones will be held in respect and gratitude by generations unborn as a result of the philanthropies of Houston Endowment, Inc., founded in 1938 by Mr. and Mrs. Jones to share the tremendous Jones fortune with educational,

religious and charitable institutions and undertakings.

Think of this. Just since 1958, 433 Houston area young men and women have been aided to higher educations by deservedly winning Jesse H. Jones and Mary Gibbs Jones scholarships. In the Texas Medical Center is the $600,000 Jones Medical Library. On Rice University campus is the $1 million Mary Gibbs Jones College, the beautiful women's dormitory complex. At the University of Houston are classroom buildings constructed from a million-dollar Jones gift. More than 30 colleges have Mary Gibbs Jones scholarships.

The Houston Post said of Mrs. Jones:

Relatively few of Houston's more than 1 million citizens would have recognized Mrs. Jones if they had seen her. Yet her contributions to the betterment of the city, shared during her lifetime with her husband, were many over a long period of time. Of Mary Gibbs Jones it can be said with truth that she helped substantially to make Houston a better place for all of us. The names of Mr. and Mrs. Jesse H. Jones will long be remembered with gratitude.

And the Houston Chronicle, discussing some of her many philanthropies, said:

A good part of the total of the munificent gifts disbursed over the years by Mr. and Mrs. Jones and through their foundation bore her own particular stamp. There is the Gibbs Memorial Library at Mexia, which honors the memory of her father and mother, Dr. and Mrs. Jasper Gibbs. There are the Mary Gibbs Jones scholarships for girls, which have helped hundreds of young women obtain college educations at some 30 colleges over the country. These scholarships have been in the fields of nursing, home economics, liberal arts and sciences, teaching and business.

Mrs. Jones shared with her husband one of the outstanding success stories in American history. He rose from a young workman to become a great banker, publisher, builder, head of the Reconstruction Finance Corporation and U.S. Secretary of Commerce.

The achievements of Mr. and Mrs. Jones are etched forever in the memories and the skyline of their beloved Houston.

I ask unanimous consent to have printed in the RECORD the following editorials: "Mrs. Mary Gibbs Jones," from the Houston Press of Wednesday, August 22, 1962; "Mary Gibbs Jones," from the Houston Post of Wednesday, August 22, 1962; "Mrs. Jesse H. Jones," from the Houston Chronicle of Tuesday, August 21, 1962; and an article entitled "Rites Scheduled for Mrs. Jones," from the Houston Chronicle of Tuesday, August 21, 1962.

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

[From the Houston Press, Aug. 22, 1962]

MRS. MARY GIBBS JONES

The death of Mrs. Mary Gibbs Jones ends a long, fruitful life of great works and great worth to her Nation, her State, and her city.

Mrs. Jones, survived by 6 years her famed husband, Jesse H. Jones, builder, financier, Cabinet member, and publisher of the Houston Chronicle.

She died at 90 years of age Monday in her penthouse apartment atop a great hotel she had helped her husband build, overlooking square blocks of other downtown Jones' buildings. She is to be buried today from magnificent St. Paul's Methodist Church on South Main, the construction of which her late husband with her aid and encouragement led as finance committee chairman.

The name of Mary Gibbs Jones will be held in respect and gratitude by generations unborn as a result of the philanthropies of Houston Endowment, Inc., founded in 1938 by Mr. and Mrs. Jones to share the tremendous Jones fortune with educational, religious and charitable institutions and undertakings.

Think of this. Just since 1958, 433 Houston area young men and women have been aided to higher educations by deservedly winning Jesse H. Jones and Mary Gibbs Jones scholarships. In the Texas Medical Center is the $600,000 Jones Medical Library. On Rice University campus is the $1 million Mary Gibbs Jones College, the beautiful women's dormitory complex. At the University of Houston are classroom buildings constructed from a million-dollar Jones gift. More than 30 colleges have Mary Gibbs Jones scholarships.

As a trustee of Houston Endowment and active in its affairs until only recently, each of these and many other gifts to aid the young, the needy, and the ill had the personal direction and blessing of Mrs. Jones.

Preferring to live as quietly as possible, Mrs. Jones generally avoided the spotlight of national attention played on her husband's long career as a leader in business and governmental circles in New York, Washington, and other centers, as well as Houston.

She liked music. Although staying as far as possible in the background, she was a big factor in bringing grand opera to Houston. She liked books—especially reading and studying history. She founded the Gibbs Memorial Library in Mexia, her central Texas birthplace, in honor of her parents, Dr. and Mrs. Jasper Gibbs.

Many high tributes were paid Mr. and Mrs. Jones before and after his death. Since his death, Mrs. Jones accepted these honors not for herself alone but always in memory of her husband and their life together. She was kindly, thoughtful, and gracious as well as generous. She will long be remembered.

[From the Houston Post, Aug. 22, 1962]

MARY GIBBS JONES

Mrs. Mary Gibbs Jones, widow of the late Jesse H. Jones, who died Monday at the age of 90, shared with her husband the love of helping others.

During her husband's long career as a builder of Houston skyscrapers and as a leader in national and international affairs, Mrs. Jones remained in the background. But Jones once said that had it not been for her patience and understanding, he could not have made his contributions to the Nation throughout his years of service in Washington.

Mrs. Jones played an active role in selecting the many philanthropic projects in which the two engaged. The Jones gifts for education and other worthy causes were many, and often unknown to the public, until in 1938 they established the Houston Endowment, Inc. This foundation, to which the bulk of the Jones fortune was given, is devoted in part to scholarships for young men and women in some 47 colleges, among them more than a dozen in Texas.

It was through the efforts of Mrs. Jones that the first building for women was given to Rice University. It is the Mary Gibbs Jones College.

The projects made possible by the Houston Endowment, Inc., have been many and generous. Among the latest, was the gift this year of $6 million to build an auditorium for the performing arts on the site of the city auditorium.

Relatively few of Houston's more than 1 million citizens would have recognized Mrs. Jones if they had seen her. Yet her contributions to the betterment of the city, shared during his lifetime with her husband, were many over a long period of time. Of Mary Gibbs Jones it can be said with truth that she helped substantially to make Houston a better place for all of us. The names of Mr. and Mrs. Jesse H. Jones will long be remembered with gratitude.

[From the Houston Chronicle, Aug. 21, 1962]

MRS. JESSE H. JONES

The thousands of persons whose lives she touched mourn the death of Mrs. Jesse H. Jones.

The widow of the Chronicle's longtime publisher was, like her husband, one of the Nation's great philanthropists. Together they established Houston Endowment, Inc., through which organization so much of their philanthropies have been channeled, and until quite recently she never missed a meeting of its board of trustees.

A good part of the total of the munificent gifts disbursed over the years by Mr. and Mrs. Jones and through the foundation bore her own particular stamp. There is the Gibbs Memorial Library at Mexia, which honors the memory of her father and mother, Dr. and Mrs. Jasper Gibbs. There are the Mary Gibbs Jones scholarships for girls, which have helped hundreds of young women obtain college educations at some 30 colleges over the country. These scholarships have been given in the fields of nursing, home economics, liberal arts and sciences, teaching, and business.

Mrs. Jones loved to live quietly, interesting herself in current affairs, music, and history. To the extent she could she avoided the limelight which played so long upon Jesse H. Jones in his career as banker, newspaper publisher and one of the Nation's greatest builders of office buildings and hotels, also in Mr. Jones' long career in public life, as head of the huge Federal lending agencies and Secretary of Commerce.

She was a woman of regal bearing, soft voice and warm personality.

Her life and good works long will be remembered by thousands.

[From the Houston Chronicle, Aug. 21, 1962]

RITES SCHEDULED FOR MRS. JONES

Mrs. Mary Gibbs Jones, widow of Jesse H. Jones, died Monday. She was 90 and had been ill since May 1.

Her granddaughter, Mrs. Audrey Jones Beck, was at her bedside when she died at 3 p.m. in her Lamar Hotel apartment.

Also present were her longtime friend, Mrs. Merle Watson, assistant manager of the Lamar Hotel, and two nurses.

Mrs. Jones' physician said she had just expressed a desire to sit up in bed "when her heart gave out."

FUNERAL WEDNESDAY

Funeral services, under arrangements by Geo. H. Lewis & Sons, will be at 5 p.m. Wednesday at St. Paul's Methodist Church, 5501 Main. Rev. A. Frank Smith, retired bishop of the Texas Methodist Conference, will officiate.

The body will lie in state from 3 p.m. to 5 p.m. Wednesday at St. Paul's, and prior to that time, at Geo. H. Lewis & Sons Funeral Home, 405 McGowen.

Mrs. Jones will be buried in Forest Park Lawndale Cemetery beside her husband, who died June 1, 1956, and her son, M. Tilford Jones, who died last April 9.

A native Texan, Mrs. Jones was born in Freestone County, the daughter of Sallie

Candler Gibbs and Dr. Jasper Gibbs. Her father practiced medicine for many years in Mexia.

Mrs. Jones attended the Mexia public schools and Methodist College in Waco.

MARRIED IN 1922

She married Jesse H. Jones on December 15, 1922.

One of Texas' most noted philanthropists. she and her husband in 1938 founded Houston Endowment, Inc. to aid educational, religious, and other charitable undertakings.

A number of hospital, church, and school buildings are named after her in honor of her philanthropy.

Until her illness, Mrs. Jones rarely missed a meeting as a trustee of Houston Endowment, of which John T. Jones, Jr., president of the Chronicle, is president.

More than 40 colleges have received grants for scholarships in her name. These scholarships are in the fields of nursing, home economics, liberal arts, science. American history, pediatrics, physical therapy, nutritional research for geriatrics, teaching and business.

These are in addition to the 433 scholarships given high school graduates in Harris County through a program set up by the endowment in 1958. These students are studying at nearly every major college in the United States.

A devotee of good music, Mrs. Jones was mainly responsible for bringing the Metropolitan Opera to Houston. She was a member of the general council of the Metropolitan Opera.

An avid reader, Mrs. Jones was particularly interested in history.

She saw history in the making when her husband, publisher of the Houston Chronicle, was called to Washington in 1932 to devote 13 years to Government service as Chairman of the Reconstruction Finance Corporation and Secretary of Commerce.

If it had not been for her patience and understanding, Jones had said, he could not have made the contribution to his country through the trying years of depression and World War II.

SOLD WAR BONDS

While Jones was busy in Government work, Mrs. Jones and Mrs. Woodrow Wilson spent many days selling war bonds in the lobby of the RFC. Then they would go home and sell bonds by telephone.

In 1941, she dispatched the first plane to leave the new Washington National Airport, then the finest in the country.

During the war years she christened the Liberty ship *James Madison* and the aircraft carrier U.S.S. *San Jacinto*.

And she was at her husband's side as he built and developed this city and gained the name "Mr. Houston."

Many honors were bestowed upon her.

RECEIVED HONORS

She and her late husband were honored October 25, 1956, by alumni of Rice University for distinguished contributions to school and community. Characteristically, she insisted she was there to receive the honor on behalf of Jones, not herself.

Only 2 months before, Mrs. Jones was presented a scroll by the Department of the Army. It cited contributions by Mr. and Mrs. Jones in establishing military scholarships at Texas A. & M. College and New Mexico Military Institute.

The University of Houston board of governors on March 14, 1957, honored Mrs. Jones and Houston Endowment as principal benefactors of the university, along with Mr. and Mrs. H. R. Cullen and the M. D. Anderson Foundation.

An honorary doctor of laws degree was awarded to Mrs. Jones June 1, 1958, by Texas Woman's University at Denton. It was then only the second time such honor awarded in the school's history and was in recognition of "her outstanding career of leadership in humanitarian and philanthropic enterprises and for her role in furthering causes of higher education for women."

Again, on May 27, 1958, Mrs. Jones and her late husband were awarded the Distinguished Service Medal of the Texas Heritage Foundation. This cited their contributions in education, journalism, and public service.

Besides her granddaughter and daughter-in-law, Mrs. M. Tilford Jones, Mrs. Jones is survived by six nieces and four nephews.

The nieces are Mrs. Howard Gager, Mrs. Mae Lynn Juenger, Mrs. Ouida Gibbs Barrow, and Mrs. Hubert Warley, all of Houston; Mrs. Lucille Gibbs Carroll of Baytown; and Mrs. Elliott Meador Beckner of New Orleans.

The nephews are Ray R. Gibbs, N. E. Meador, Jr., and Gibbs Meador, all of Houston, and Frank Smith of Corpus Christi.

PALLBEARERS NAMED

The pallbearers will be Fred Heyne, Sr., W. W. Moore, Frank Liddell, John A. Beck, John T. Jones, Jr., R. P. Doherty, Col. Joseph Hartfield, Capt. T. Reiber, Col. Joe Evans, N. E. Meador, Gibbs Meador, Hugh Juenger, Howard Gager, J. Hurt Garrett, J. H. Creekmore, Frank Smith, and Ray Gibbs. All except Hartfield and Reiber, both of New York City, and Smith, of Corpus Christi, are from Houston.

THE GREAT SEAL OF THE UNITED STATES

Mr. BEALL. Mr. President, the Evening Capital, of Annapolis, Md., on August 29, 1962, carried an article by Mr. Charles Havlena announcing that the great seal of the United States may now be viewed at the Library of Congress.

For years, the great seal had been in the custodial files of the Library of Congress as part of the Library's papers respecting George Washington. Through the efforts of Mr. Havlena, the great seal has been taken from the files and placed on public exhibition. I commend Mr. Havlena for his tireless efforts in bringing this historic document to public attention.

Mr. President, I ask that the article by Mr. Charles Havlena be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARYLANDER JOHN HANSON WITNESSED FIRST OFFICIAL USE OF NATION'S GREAT SEAL—HISTORIC DOCUMENT ON VIEW IN WASHINGTON

An idea of what personal freedom should be was in the minds of hardy and enterprising settlers who came to Jamestown, Va., in 1607. Their hopes of civil liberty reposed in the sureties of the Magna Carta of 1215, a charter of liberties by due process of law.

These views, too, were shared by the Pilgrims who, prior to going ashore in Plymouth, Mass., in 1620, signed the Mayflower Compact, the first written constitution of self-government in America.

To the cause of liberty, luster was added by the dedicated Founding Fathers when they signed and adopted the Declaration of Independence in 1776.

Midst jubilation of the first Independence Day, July 4, 1776, President of Congress, John Hancock, stated: "We are now a nation, and I am ready to hear you vote on the question, 'Resolved, that Dr. Franklin, Mr. Thomas Jefferson, and Mr. John Adams be a committee to devise a seal of the United States of America.'"

Resolutely, the committee considered many designs for a seal; however, unsuccessfully. Other committees tried, but they, too, failed in their efforts.

Finally, the Secretary of Congress, Charles Thomson, helped by William Barton, submitted an acceptable design for the great seal, which the "United States in Congress assembled" adopted June 20, 1782.

The earliest known impression of the great seal appears on the historic document of September 16, 1782. This document is a commission from the "United States in Congress assembled" granting to Gen. George Washington full power and authority to exchange prisoners of war with England.

Although this historic document is not well known as others, it is one of the treasured documents of our Nation's heritage.

As the visible symbol of our sovereignty, the great seal is impressed upon certain official documents of state thus authenticating at home and abroad various official acts of our Government.

The 175th anniversary of the great seal impressed on the document of September 16, 1782, was commemorated by the Department of State in appropriate ceremony on September 16, 1957.

For many years, the historic document had been in the custodial files of the Library of Congress as part of the Library's papers respecting Gen. George Washington.

Currently, in the public interest, this document, in good state of preservation, may now be seen in the Library of Congress, Washington, D.C., on permanent display in a glass-enclosed cabinet, second floor of the main building.

The earliest known use of the great seal on this document is signature witnessed by Patriot and Marylander John Hanson, President of the "United States in Congress assembled."

When this and enshrined documents of our Nation's heritage are viewed by you in high regard, you will experience a profound gratitude for the conspicuous part played by the dedicated patriots of the American Revolution, who placed their lives and fortunes in forfeit, to bring our Republic into being. They, thereby "demonstrated to the world that men could govern themselves in dignity, harmony, freedom."

RETIREMENT OF JUSTICE FELIX FRANKFURTER

Mr. SALTONSTALL. Mr. President, recently Mr. Justice Felix Frankfurter retired from the Supreme Court of the United States. As a member of his first class in criminal law at Harvard Law School, I respected the way in which he conducted that class and was very happy that he gave me a good mark. Our friendship began at that time and has continued ever since. I have admired his work on the Court and his respect for the Constitution and laws of our country.

Last Sunday, September 2, the Boston Globe published an article entitled "American Saga: How Felix Frankfurter Climbed to Top," written by Paul H. Freund, Carl M. Loeb professor, Harvard University; and on Friday, August 31, the Washington Post published an editorial entitled "Frankfurter's Gift to Law."

I ask unanimous consent that the article and editorial may be printed in the body of the RECORD.

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

[From the Boston Globe, Sept. 2, 1962]

AMERICAN SAGA: HOW FELIX FRANKFURTER CLIMBED TO TOP—FROM THE LOWER DECK TO THE HIGHEST COURT—IMMIGRANT, UNABLE TO SPEAK A WORD OF ENGLISH AT THE AGE OF 12—EDITOR OF HARVARD LAW REVIEW AT 20—JUSTICE OF SUPREME COURT AT 52—A PART OF AMERICAN HISTORY TODAY

(By Paul H. Freund, Carl M. Loeb professor, Harvard University)

As teacher and public official, Felix Frankfurter has been one of the most influential minds of his time.

Although he held active posts in Republican and Democratic administrations, and was drawn into many stormy controversies of the day, he never ceased to regard teaching as his calling, whether carried on in the law school classroom, through judicial opinions, or in the give and take of lively correspondence and spirited talk.

Often viewed as a radical because of his defense of unpopular persons and causes, he has come finally to be recognized as essentially a conservative, whose thinking had always been marked by a deep respect for tradition and a profound concern for fair procedures, for the free play of ideas, and for judicial self-restraint in judging the validity of legislative acts in a democracy.

Justice Frankfurter's passionate feeling for history and democracy doubtless derived in part from his coming to America as an immigrant from Austria, just as his effervescent spirit owed something to his Viennese background.

Brought to this country with his family in 1894 at the age of 12, he attended the New York public schools and was graduated from the College of the City of New York in 1902 with high honors.

After a year spent in teaching, he entered the Harvard Law School in 1903, became an editor of the Harvard Law Review on the basis of academic distinction, and received his law degree in 1906.

Returning to New York, he became an assistant U.S. attorney under Henry L. Stimson, and then began an apprenticeship which greatly influenced Frankfurter's development and which ripened into a close friendship lasting until Stimson's death.

The austere moral standards to which Stimson insisted that prosecutors must conform were referred to frequently by Frankfurter in his later work as scholarly critic and judge.

When Stimson was called to Washington to become President Taft's Secretary of War in 1911, he brought Frankfurter with him as legal officer of the Bureau of Insular Affairs and counsel to the Secretary in matters affecting rivers and harbors, notably the issuance of licenses for the construction of dams in navigable waters.

Thus his legal experience, which in New York had been centered on the criminal and antitrust laws, was extended to the field of public utilities.

Staying on in Washington into the first years of the Wilson administration, Frankfurter's interests were further enlarged.

He became one of the first contributing editors of the New Republic and a pillar of the House of Truth, a bachelor residence which was a center of intellectual ferment in the early period of the new freedom.

There he was a member of the group of literary and political commentators that included Herbert Croly, Francis Hackett, and Walter Lippmann. At the same time, he formed a close friendship with Justice Holmes, who, together with Henry Stimson and Louis D. Brandeis, shaped his governing professional philosophy.

He found especially congenial in Holmes' thought a spacious conception of law as a response to what Holmes called the "felt necessities of the time," and a similarly generous view of the Constitution as a charter that permitted the widest latitude for legislative experiment, save only as the legislation violated basic rights essential to a civilized society.

In 1914, Frankfurter accepted a call to Harvard to become the first Byrne professor of administrative law.

His talents were enlisted by Mr. Brandeis, until 1916 a practicing lawyer in Boston, in support of social legislation then under serious constitutional attack.

When Brandeis was appointed to the Supreme Court, the responsibility fell to Frankfurter to carry forward the presentation before the Court of the arguments in behalf of maximum-hours legislation and laws setting minimum wages for women.

In the first he was successful; in the second his arguments were rejected by a divided Court, but he had the satisfaction of seeing that decision overruled in an opinion of Chief Justice Hughes 2 years before his own appointment to the Court.

Frankfurter was closely identified with Brandeis in Zionist affairs.

In 1919, Frankfurter was in Paris seeking to persuade European Zionists to adopt Brandeis' program of social justice as the basis of a mandate for Palestine. In 1931 he published in "Foreign Affairs" an article entitled "The Palestine Situation Restated," in which he charged that British policy was deviating from the principles of the Balfour Declaration.

His belief in the Zionist cause was qualified, he acknowledged, by a dislike of nationalism, and his critical attitude toward Britain was mitigated by his admiration for that country.

Frankfurter served on the faculty of the Harvard Law School for 25 years, interrupted by a wartime leave of absence in 1917–20.

To his teaching he brought a love of dialectic, a mind both sharp and cultivated, a vibrant presence, and a contagious enthusiasm for the law as both an instrument of social progress and a safeguard of basic liberties.

His courses drew on his special interests and experience. Besides administrative law, in which he was a pioneering scholar, he taught courses on the Federal courts and the Interstate Commerce Commission, which regularly attracted the ablest students in the school.

Each year he selected for Justice Holmes and for Justice Brandeis a ranking graduate to serve as law clerk, sometimes after a postgraduate year with Frankfurter as a research assistant.

In each of the subjects he taught, Frankfurter published a casebook of originality and scholarly depth.

In addition, he wrote (with Nathan Greene) a volume on the Labor Injunction, which foreshadowed the Norris-La Guardia anti-injunction law, and (with James M. Landis) a volume on the Business of the Supreme Court a historical account of the evolution of the Court's functions and practices.

It is noteworthy that his essential preoccupation has been with legal procedures, not in a narrow technical sense, but as processes devised by lawyers and maintained by judges for the rational analysis of a wide range of inevitable controversies.

This concern for right procedures was at the heart of Frankfurter's identification with the cause of civil liberties. During the First World War, he was drawn officially into two dramatic episodes, the Mooney-Billings case and the so-called Bisbee, Ariz., deportations.

He became a major in the Judge Advocate General's Department of the Army after our entry into the war in 1917, and was appointed Secretary and Counsel to the President's Mediation Commission, established to deal with labor stoppages in war industries.

In that capacity, he investigated a strike of copper miners and the resulting deportation of more than a thousand workers by a force of vigilantes, who carried them by train across the Arizona border into New Mexico.

Frankfurter's report was strongly critical of the managers of the companies who planned the reprisal against the strikers; but it also pointed out that the strike itself was unjustified and that the basic need was a system of orderly, impartial adjudication of grievances. Such a system was established by the Mediation Commission for the duration of the war.

The Mooney-Billings case came within Frankfurter's province on instructions from President Wilson.

After an intensive investigation of the conviction of these radical labor leaders for the dynamiting of a preparedness parade in San Francisco in 1916, the President's Commission reported "ground for disquietude" in "the atmosphere surrounding the prosecution and trial of the case," and recommended that the President use his good offices with the Governor of California to secure a new trial.

Noting the repercussion of the case throughout the world, the report, drafted by Frankfurter, concluded: "The feeling of disquietude aroused by the case must be heeded, for if unchecked, it impairs the faith that our democracy protects the lowliest and even the unworthy against false accusations.

"War is fought with moral as well as material resources. We are in this war to vindicate the moral claims of unstained processes of law, however slow at times such processes may be. These claims must be tempered by the fire of our own devotion to them at home."

Twenty-one years later, in 1939, Mooney and Billings were pardoned by the Governor.

Following the war, he became one of the original members of the American Civil Liberties Union, founded in reaction against law-enforcement methods then prevailing in the Department of Justice, which were viewed as the product of postwar hysteria and as violations of constitutional rights.

In a series of such cases in Boston, involving aliens arrested and held for deportation, Federal Judge George W. Anderson appointed Frankfurter to assist in the defense. Virtually all of those held were ultimately released.

The most celebrated of Frankfurter's battles in the cause of civil liberties, and the one which was chiefly responsible for the radical label affixed to him in the popular mind was the Sacco-Vanzetti case in Boston.

After the conviction in 1921 of the two Italians, who were philosophical anarchists, for murder in the course of a payroll robbery in South Braintree, there was widespread agitation over the question whether they had received a fair trial. The case remained in the courts for 6 years.

Frankfurter made an intensive study of the record of the trial together with affidavits submitted thereafter which, if true, would have exonerated Sacco and Vanzetti by establishing the guilt of a professional gang of robbers.

As a result of this study, Frankfurter published an extensive article in the Atlantic Monthly in March 1927, later expanded into a book, analyzing the evidence, sharply criticizing the conduct of the trial judge, Webster Thayer, and the prosecutor, and urging a new trial for the defendants.

Frankfurter was never counsel for Sacco and Vanzetti, nor was his interest aroused by their radical beliefs, save as these were, in his words, "raked fore and aft" in the trial with extreme prejudice to the defendants.

Nevertheless, by an ironic turn, he came to be associated in the popular mind with

the very doctrines which he intensely believed to be irrelevant.

His position in the Sacco-Vanzetti case was strikingly reminiscent of that which he had taken 10 years before in the report on the Mooney-Billings convictions.

The wounds left by the Sacco-Vanzetti case were reopened in 1932 when Gov. Joseph B. Ely nominated Frankfurter as a justice of the Supreme Judicial Court of Massachusetts. The nomination took Frankfurter himself by surprise.

He was not inclined to give up his professorship, and his immersion in issues of Federal law, for a State judicial office, and yet the opposition which quickly formed to his confirmation led him to defer a reply to the Governor. When it became evident to him that confirmation was assured, he declined the nomination.

Among the messages to the Governor praising the nomination, was one from Justice Holmes, characterizing the nominee as the most outstanding man for the office in learning and ability.

When Franklin Roosevelt was elected in 1932, it was widely assumed that Frankfurter would become a member of the administration.

His friendship with Roosevelt extended back to their service together in the Wilson administration, when the latter was Assistant Secretary of the Navy.

In Roosevelt's governorship of New York, as in that of Alfred E. Smith before him, Frankfurter had been consulted on legal and legislative matters, and it was expected that he would occupy a legal post in the New Deal.

He declined, however, an offer of the solicitor generalship, preferring to retain the independence and opportunities for scholarship which his Harvard chair assured.

His judgment was doubtless vindicated when in 1937 he was able to stand aloof from Roosevelt's Court-packing plan, on which he made no public pronouncement.

In view of his close relations with the President, his silence was generally construed as disapproval.

The whole body of his experience and reflection would have led him to see the constitutional crisis as a failure of education.

The majority of the Court were dealing with the validity of legislation as if it were a question of legislative wisdom, and so were guilty of an excess of authority under the standards for which Holmes and Brandeis had long been struggling.

In this view, the remedy lay not in a dramatic move such as an increase in the size of the Court, with all its implications of Executive control, but in a deeper awareness among the bench and bar of the proper limits of judicial review of legislation.

This was an end to which Frankfurter was devoting his academic life.

Though not in public office, Frankfurter was frequently asked to recommend lawyers to serve in New Deal posts, and many of those so chosen rose to positions of prominence.

Some had been law clerks to Holmes or Brandeis, among them Dean Acheson, Thomas G. Corcoran, James M. Landis, and Calvert Magruder.

By no means all of the New Deal program had the approval of Frankfurter.

His Brandeisian distrust of business made him skeptical of the NRA.

His sympathies were with measures of fundamental reform, such as the Public Utilities Holding Company Act, social security, and the guarantee of collective bargaining in the Wagner Act.

When Justice Cardozo died in 1938, Frankfurter was widely regarded as his appropriate successor, as Cardozo had been the rightful inheritor of the place left by Holmes in 1932.

Two appointments had already been made to the Court by Roosevelt, that of Hugo Black to succeed Justice Van Devanter in 1937, and of Stanley Reed to succeed Justice Sutherland in 1938. Frankfurter's appointment was urged by the faculties of leading law schools as well as by members of the bar.

A poll conducted in the autumn of 1938 showed that he was the choice of five times as many lawyers as any other individual, although two-thirds of those voting were anti-Roosevelt.

He was nominated on January 5, 1939, confirmed 12 days later, and took his seat on January 30.

While the nomination was pending in the Senate Judiciary Committee, he was invited to appear before the committee and he did so, though expressing regret that the committee was departing from an almost unbroken practice of refraining from summoning a Supreme Court nominee.

"While I believe that a nominee's record should be thoroughly scrutinized by this committee," Frankfurter said, "I hope you will not think it presumptuous on my part to suggest that neither such examination nor the best interests of the Supreme Court will be helped by the personal participation of the nominee himself.

"I should think it improper for a nominee no less than for a member of the Court to express his personal views on controversial issues affecting the Court. My attitude and outlook have been fully expressed over a period of years and are easily accessible.

"I should think it not only bad taste but inconsistent with the duties of the office for which I have been nominated for me to attempt to supplement my past record by present declarations."

Despite these animadversions, the precedent set in the hearings on Frankfurter has been adhered to by the committee in considering more recent nominations to the High Court.

On the Court, Justice Frankfurter sought to avoid extreme positions. In many cases he was in disagreement with Justices Black and Douglas, who were joined in late years by Chief Justice Warren and Justice Brennan.

Critics have argued that Frankfurter weakened in his attachment to the principles of civil liberty. The answer contained in his opinions is that for a judge, the issues are more complex than the critics acknowledge.

On questions of fair procedure, due process of law in the primary sense, Justice Frankfurter remained insistent on the observance of civilized standards by prosecutors and judges.

He did not hesitate, for example, to reverse convictions obtained in the Federal courts through illegal searches and seizures, wiretapping, or confessions obtained during a period of unlawful detention of the accused.

Over these abuses, he believed, the Supreme Court rightly exercised wide supervisory control. But he was more hesitant about applying the identical standards to the States as a matter of constitutional law, however much he personally deprecated these practices.

Similarly, he refused to apply his own judgments of sound legislative policy to invalidate statutes on constitutional grounds.

Though much of the legislation affecting rights of speech and association in the name of internal security was offensive to him, he insisted that a judicial judgment must be divorced from such considerations and must consider only whether the law had passed the bounds of reason or had violated a specific prohibition in the Constitution.

This judicial philosophy was poignantly expressed in the Flag-Salute case of 1943.

Members of the sect of Jehovah's Witnesses had been required to join in the traditional flag-salute ceremony in the public schools despite their religious conviction that to do so was an act of profanation.

The Supreme Court ruled that the requirement was unconstitutional.

Frankfurter, however, delivered a dissenting opinion which began with this self-revealing passage:

"One who belongs to the most vilified and persecuted minority in history is not likely to be insensible to the freedoms guaranteed by our Constitution.

"Were my purely personal attitude relevant, I should wholeheartedly associate myself with the general libertarian views in the Court's opinion, representing as they do the thought and action of a lifetime.

"But as judges, we are neither Jew nor Gentile, neither Catholic nor agnostic. * * * As a member of this Court I am not justified in writing my private notions of policy into the Constitution, no matter how deeply I may cherish them or how mischievous I may deem their disregard."

In appreciation of this judicial philosophy, Judge Learned Hand wrote concerning Justice Frankfurter, on the latter's 76th birthday: "I regard him at the moment as the most important single figure in our whole judicial system."

On occasion Justice Frankfurter was prepared to find that State action had passed the limits of tolerance under the Bill of Rights. Thus, he joined in the decision upsetting released-time programs for religious education carried on in the public schools, and he wrote the Court's opinion ruling that Michigan could not prevent all sales of books that might corrupt the minds of children.

In 1957 he wrote a separate concurring opinion in the case of *Sweezy* v. *New Hampshire* in which the Court held that the State attorney general lacked authority to question a university lecturer about the contents of a classroom lecture.

Justice Frankfurter voiced his concern for academic freedom when threatened by governmental intrusion:

"These pages need not be burdened with proof, based on the testimony of a cloud of impressive witnesses, of the dependence of a free society on free universities. This means the exclusion of governmental intervention in the intellectual life of a university.

"It matters little whether such intervention occurs avowedly or through action that inevitably tends to check the ardor and fearlessness of scholars, qualities at once so fragile and so indispensable for fruitful academic labor."

Justice Frankfurter was able to differentiate the Sweezy case when he was faced in 1959 with the conviction of Lloyd Barenblatt, a college instructor, for contempt of the House Un-American Activities Committee in refusing to answer questions concerning his membership in the Communist Party.

Justice Frankfurter allied himself with a five-man majority to uphold the conviction, believing that actual Communist membership was a subject into which Government might inquire, even in the case of a teacher.

Frequently delivering a separate concurring opinion to sharpen the meaning of a decision, Justice Frankfurter regretted that the pressure of the Court's docket did not permit the writing of individual opinions in every case, as is the practice in the British House of Lords.

Highly articulate and sensitive to the shadings of language, he took great pains in the composition of his opinions. Of his literary style, Archibald MacLeish, writing in 1939, said:

"Few scholars and fewer scholars of the law, have written a more natural, more lucid or more readable English than Mr. Frankfurter writes at his best."

Justice Frankfurter is fond of saying that his best literary critic is his wife, the former Marian A. Denman, whom he married in 1919.

A warm admirer of English justice and English literature, Justice Frankfurter has maintained close ties with judges, scholars, and journalists in that country.

More than any other member of the Court, he has embellished his opinions with references to the law of England and the British Commonwealth. He is a regular reader of English newspapers and learned periodicals; the air edition of the London Times is supplied to him each day by the Library of Congress before it is filed.

He spent the academic year 1933–34 as Eastman visiting professor at Oxford, and in 1939 received an honorary doctorate of laws from that university.

The range of Justice Frankfurter's friendships reflected the catholicity of his interests and the warmth of his nature.

A volume of essays by the justice, published in 1956 under the title "Of Law and Men," contains such diverse figures as Alfred E. Smith and Alfred North Whitehead, Harold J. Laski and Lord Lothian, John Dewey and Thomas Mann.

When Justice Brandeis was asked on his retirement whether he planned to write his memoirs, he replied, "I think you will find that my memoirs have already been written."

In a sense the same could be said of Justice Frankfurter, but those who know the liveliness and richness of his mind will be looking forward to some new and exciting chapters.

[From the Washington Post, Aug. 31, 1962]

FRANKFURTER'S GIFT TO LAW

Justice Felix Frankfurter's contribution to American life and law cannot be adequately measured in these columns. Like his great predecessor, Justice Oliver Wendell Holmes, Mr. Frankfurter and his philosophy and judicial decisions will be a fruitful subject for judges, authors, and commentators for many years to come. Out of this intellectual churning of his ideas will emerge a clearer view of his standing among the great jurists of our history. It is possible, however, as he goes into retirement, to appraise some of the qualities of his mind and thus to give a better understanding of the void that his departure leaves on the bench.

Probably the most significant thing about him is the breadth of his intellectual interests. It has not been possible to fit Mr. Frankfurter into a narrow groove or to identify him with any "ism," "interest," cult or predilection. On one occasion he expressed the view that a judge "should be compounded of the faculties that are demanded of the historian and the philosopher and the prophet," and this has been the aim of his own endeavor.

He has recognized that judges are men, "not disembodied spirits." But this does not mean that all men are fit to be judges—far from it. Recognizing that the judge needs something of the creative artist in him, he has cultivated acquaintance, as Judge Learned Hand advised, with Acton and Maitland, with Thucydides, Gibbon and Carlyle, with Homer, Dante, Shakespeare, Milton and many others. Knowing that decisions on the bench will reflect "the totality of a man's nature and experience," he has insisted on enriching the resources on which his judgment could draw.

Despite his generous measure of self-confidence, Justice Frankfurter has never supposed that he was elevated to the Supreme Bench to weave his own superior wisdom into the law of the land. Rather, he has sought to make his conclusions "reflect understanding of, and due regard for, law as the expression of the views and feelings that may fairly be deemed representative of the community as a continuing society." He has recognized a duty to emancipate his conclusions as a judge from his personal prejudices and desires.

It would be foolish, of course, to assume that Mr. Frankfurter or any other judge has attained complete objectivity. But he must be credited with a mighty struggle in that direction. As one who deeply loves the Supreme Court and who deeply believes in its function as the balance wheel of our democratic system, he has sought to emulate the best judicial tradition of the Court. "A judge worth his salt," he has often said, "is in the grip of his function." As a dedicated instrument of justice on a national scale, he naturally gravitated toward soul searching and disinterestedness.

The retiring Justice has also been keenly aware of the complicated nature of the problems that are laid before the Supreme Court. Most of the cases reaching the Court of last resort are highly controversial and some of them involve more than one basic constitutional principle. In situations of this kind Justice Frankfurter has insisted on looking at the whole complex and not at merely an oversimplified part of it. One may quarrel with some of his conclusions in specific cases, but it is difficult to take exception to his insistence that the judicial process requires reconciliation of these conflicting claims in the light of the whole Constitution, the nature of our system, the experience of nearly two centuries and previous decisions of the Court.

When the work of Justice Frankfurter can be seen in greater perspective, his sense of historic continuity is likely to command greater appreciation than it does today. Some of his critics accused him of shifting, with the advance of the years, from liberalism to conservatism. In part this seeming evolution is attributable to changes in the orientation of the Court as a whole. In part it is also due to changes in the concept of liberalism on the Bench. What used to be called liberalism was the disposition of Holmes, Brandeis, Stone and others to give Congress a free hand in legislating so long as it did not patently overstep its powers. Now liberalism is often equated with the policy of restricting congressional power for the attainment of greater individual liberty.

Actually Justice Frankfurter has followed the Holmes tradition with a large measure of consistency. When unwilling to go as far as some of his brethren in upholding claimed rights, it was because he saw the long-range necessity of preserving governmental power to serve the public welfare. The interests of both stability and adaptation to new conditions must be served. The Justice is fond of quoting Alfred North Whitehead to the effect that "those societies which cannot combine reverence to their symbols with freedom of revision, must ultimately decay either from anarchy, or from the slow atrophy of a life stifled by useless shadows."

Justice Frankfurter's service has been dedicated to the idea that the United States can use the principles that have proved trustworthy in the past as a guide to changes that need to be effected in the present and future. With all his emphasis on judicial restraint, he has never had a static approach to the momentous business of judging. Now that he will be seeking well-earned rest the country will be keenly aware of its need for new jurists of his stature, of his historic perspective and of his largeness of spirit.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

[No. 240 Leg.]

Aiken	Fulbright	Kerr
Bartlett	Gore	Lausche
Bush	Hartke	Mansfield
Byrd, Va.	Hayden	Monroney
Cannon	Hickenlooper	Morse
Carlson	Hill	Neuberger
Dirksen	Hruska	Pearson
Ervin	Keating	Saltonstall
Scott	Thurmond	Young, N. Dak.
Smith, Maine	Tower	Young, Ohio
Sparkman	Wiley	
Stennis	Williams, Del.	

Mr. MANSFIELD. I announce that the Senator from Mississippi [Mr. EASTLAND], the Senator from Alaska [Mr. GRUENING], the Senator from Minnesota [Mr. HUMPHREY], and the Senator from Washington [Mr. MAGNUSON] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], the Senator from Wyoming [Mr. HICKEY], and the Senator from Missouri [Mr. SYMINGTON] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Indiana [Mr. CAPEHART], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. MURPHY] are necessarily absent.

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will carry out the order of the Senate.

After a little delay Mr. ALLOTT, Mr. BEALL, Mr. BOGGS, Mr. BURDICK, Mr. BUTLER, Mr. BYRD of West Virginia, Mr. CARROLL, Mr. CASE, Mr. CHAVEZ, Mr. CHURCH, Mr. CLARK, Mr. COOPER, Mr. COTTON, Mr. CURTIS, Mr. DODD, Mr. DOUGLAS, Mr. ELLENDER, Mr. ENGLE, Mr. FONG, Mr. HART, Mr. HOLLAND, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. JORDAN of North Carolina, Mr. JORDAN of Idaho, Mr. KEFAUVER, Mr. KUCHEL, Mr. LONG of Missouri, Mr. LONG of Hawaii, Mr. LONG of Louisiana, Mr. MCCARTHY, Mr. MCCLELLAN, Mr. MCGEE, Mr. MCNAMARA, Mr. METCALF, Mr. MILLER, Mr. MOSS, Mr. MUNDT, Mr. MUSKIE, Mr. PASTORE, Mr. PELL, Mr. PROUTY, Mr. PROXMIRE, Mr. RANDOLPH, Mr. ROBERTSON, Mr. RUSSELL, Mr. SMATHERS, Mr. SMITH of Massachusetts, Mr. TALMADGE, Mr. WILLIAMS of New Jersey, and Mr. YARBOROUGH entered the Chamber and answered to their names.

The PRESIDING OFFICER (Mr. PELL in the chair). A quorum is present.

REVENUE ACT OF 1962

The Senate resumed the consideration of the bill (H.R. 10650) to amend the Internal Revenue Code of 1954 to provide a credit for investment in certain depreciable property, to eliminate certain defects and inequities, and for other purposes.

Mr. DIRKSEN. Mr. President, when the Senate had under consideration the so-called social security amendments, to which there was offered the Anderson-Javits proposal, copious tears were shed in this Chamber over the alleged fact

that our senior citizens were compelled to take a so-called pauper's oath to secure benefits under the Kerr-Mills Act.

I made mention at that time that no Senator stood in his place in the Senate and offered a proposal to amend existing law in order to cure that difficulty if it actually was a difficulty. I saw no one stand in his place and offer an amendment to the Kerr-Mills Act with respect to what was called the pauper's oath.

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

Mr. DIRKSEN. I yield.

Mr. KERR. I ask unanimous consent that Mr. Fred Arner, of the Legislative Reference Service, a technician on social security legislation, be permitted to sit with me in the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIRKSEN. I determined then that before the end of the session I was going to offer some language that would wholly or in part cure what was the alleged difficulty. It is never easy to contrive language which will retain the spirit of the Kerr-Mills Act and still effectuate what one has in mind.

However, I have submitted an amendment this morning, which is permissive in character. It amends the Social Security Act in the proper place to this effect, in adding another criterion that is spelled out in the law. It says:

On page 391, between lines 21 and 22, it is proposed to insert the following new section:

"SEC. 127. AMENDMENT TO TITLE I OF THE SOCIAL SECURITY ACT RELATING TO STATEMENT OF FINANCIAL STATUS OF CLAIMANTS FOR MEDICAL ASSISTANCE FOR THE AGED.

"Paragraph (11) of section 2(a) of the Social Security Act is amended (1) by striking out 'and' and at the end of clause (D), (2) by striking out the period at the end of clause (E), and (3) by adding after clause (E) the following new clause:

"'(F) May provide that any statement required of a claimant for medical assistance for the aged, if made in writing and signed by the claimant, shall, insofar as such statement relates to the financial status of such claimant, be presumed by such State agency to be factually correct for purposes of determining his eligibility for such assistance.'"

On page 391, line 22, strike out "27" and insert in lieu thereof "28".

Mr. President, as the amendment was originally drawn, it included the word "shall," which would have made the provision mandatory. But after conferring on the amendment, and in order to preserve the Federal-State spirit of the Kerr-Mills Act, I have modified the amendment to make it permissive. So it would be up to the States to do exactly what I have in mind; and if anyone should quarrel about what his State does with respect to the requirement of an oath that in effect must affirm the indigence of the claimant in question, that is a question for the State to determine. Certainly the State will still qualify under the Federal act to make it permissive.

In connection with this whole subject, I recall that not only was the pauper's oath so generously ventilated on the floor, but so many other things in connection with medicare were advanced, that I made the statement then that, in my judgment, neither the Federal nor the State authorities had undertaken any real effort or had diligently set themselves to the business of selling to the people what was available to them under the Kerr-Mills Act. Since that time, I have caused to be prepared a pamphlet on the subject.

Mr. President, I ask unanimous consent that in the form in which it is printed it be made a part of the RECORD.

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

ARE YOU OVER 65?—ILLINOIS HAS MEDICARE—YOU ARE ENTITLED TO MEDICAL CARE

You are eligible for medicare in Illinois if you (1) are 65 or over, (2) a permanent resident, (3) have yearly income not over $1,800 if an individual, or $2,400 if married couple, (4) own assets under $2,400 (not counting home), (5) need major medical care.

Apply: Illinois Public Aid Commission, at your county seat.

FIRST 11 MONTHS OF ILLINOIS MEDICARE

The following report on Illinois medicare is from its beginning, August 1, 1961, through June 1962:

Applications approved	3,329
Applications pending	660
Applications denied or withdrawn [1]	2,277
Cases billed and payment made	1,183
Paid out on these bills	$634,000
Average expenditure made on paid bills	$536
Cases approved during last 2 months (May, June 1962)	961

[1] Some applications were for information only. Others were withdrawn before completion but the 10 main reasons for rejection were: (1) relatives able to meet costs; (2) income or assets exceeded limits; (3) applied for services not offered; (4) refused to comply with IPAC policy; (5) failed appointment; (6) death of applicant; (7) applicant not yet 65; (8) applicant not hospitalized; (9) medical needs met by insurance; (10) eligible for another State program.

HOW MEDICARE CAME ABOUT

1960: Congress approved the Kerr-Mills law. The Kerr-Mills law provides for a Federal-State medical program on behalf of people 65 or over.

July 1961: The Illinois General Assembly passed the Arrington-Kaplan Act authorizing the Illinois medicare program; $18,300,000 for the first 2 years of the program was approved in the Arrington-Kaplan Act.

Half the cost of services are paid by the Federal Government and half by the State of Illinois.

August 1, 1961: Services became available to Illinois residents.

BENEFITS OFFERED

1. Unlimited hospital care.

2. Doctors' care in hospital (except in Cook County by IPAC decision).

3. Thirty days' physician care after hospitalization.

WHAT IS AUTHORIZED

The Illinois Public Aid Commission has been given power to decide what will be provided through the program, but the basic Illinois law authorizes the following services: Drugs, nursing home,[1] diagnostic, physician, hospital, dental, laboratory and X-ray, outpatient clinic, physical therapy, home health care, private nursing.

[1] Persons needing nursing home care for which they are unable to pay can obtain such services through another State program through the IPAC offices.

Mr. DIRKSEN. Mr. President, on the first page of the pamphlet, in sufficiently large type, I raise the question:

I read from the pamphlet:

Are you over 65?

Beneath that:

Illinois has medicare. You are entitled to medical care.

On the next two pages, in large type:

You are eligible for medicare in Illinois if you (1) are 65 or over, (2) a permanent resident, (3) have yearly income not over $1,800 if an individual, or $2,400 if married couple, (4) own assets under $2,400 (not counting home), (5) need major medical care.

Apply: Illinois Public Aid Commission, at your county seat.

Then I have set forth the experience in Illinois:

First 11 months of Illinois medicare:

The following report on Illinois medicare is from its beginning, August 1, 1961, through June 1962: 3,329 applications were approved; 660 applications were pending; 2,277 applications were denied or withdrawn; 1,183 cases had been billed and payment made; $634,000 had been paid out on these bills; $536 average expenditure was made on paid bills; 961 cases were approved during last 2 months (May, June 1962).

Then I set forth in the pamphlet some of the reasons why applications were denied.

Some applications were for information only, others were withdrawn before completion, but the 10 main reasons for rejection were: (1) relatives able to meet costs; (2) income or assets exceeded limits; (3) applied for services not offered; (4) refused to comply with IPAC policy; (5) failed appointment; (6) death of applicant; (7) applicant not yet 65; (8) applicant not hospitalized; (9) medical needs met by insurance; (10) eligible for another State program.

Then I set forth on page 5, under the title "How Medicare Came About," this language:

Year 1960: Congress approved the Kerr-Mills law. The Kerr-Mills law provides for a Federal-State medical program on behalf of people 65 or over.

July 1961: The Illinois General Assembly passed the Arrington-Kaplan Act authorizing the Illinois medicare program—$18,300,000 for the first 2 years of the program was approved in the Arrington-Kaplan Act.

Half the cost of services are paid by the Federal Government and half by the State of Illinois.

August 1, 1961: Services became available to Illinois residents.

Finally, on page 6, I have set forth the following information:

Benefits offered:

1. Unlimited hospital care.

2. Doctor's care in hospital (except in Cook County by IPAC decision).

3. Thirty days' physician care after hospitalization.

Then the pamphlet states:

What is authorized:

The Illinois Public Aid Commission has been given power to decide what will be provided through the program, but the basic Illinois law authorizes the following services:

Drugs, nursing home,[1] diagnostic, physician, hospital, dental, laboratory, and X-ray,

[1] Persons needing nursing-home care for which they are unable to pay can obtain such services through another State program through the IPAC offices.

outpatient clinic, physical therapy, home health care, private nursing.

Mr. President, I desired that the contents of this pamphlet be a part of my remarks to indicate that 28 States have now passed enabling legislation whereby the benefits of the Kerr-Mills Act become available.

So we come to the question whether a person in need of medical care is required to take a so-called pauper's oath. As I read the language of the existing law, I doubt whether that is a valid interpretation; but in order to clear any doubts on the subject and to make certain that there is no requirement upon the State to require an oath or affirmation of that kind, it would be made clear in the Federal law itself, by the language of this amendment, that any statement required of the claimant for medical assistance for the aged, if made in writing and signed by the claimant, shall, so far as the last statement relates to the financial status of such claimant, be presumed by such agency to be factually correct for the purposes of determining his eligibility for such assistance.

Mr. President, I know, of course, that the amendment amends the Social Security Act and not a tax or revenue act as such; but after all the discussion and after the surcharged atmosphere of the Senate Chamber when the Senate was considering the Anderson-Javits proposal, I did not feel at that time that it was appropriate to complicate the matters before the Senate by submitting this amendment. But I was dutybound, and I was bound in my own conscience, to offer it before this session of Congress adjourned. As a result, this language will make it permissive and will leave it to the States whether or not they will require that kind of oath. In doing so, the amendment preserves the essential and basic spirit of the Kerr-Mills Act, which is essentially a Federal-State system.

After all the tears that were shed, Mr. President, here is an opportunity to redeem those tears, if some still feel that Federal law requires that the recipient take some sort of oath declaring the impoverishment of the claimant who may be in need of medical care.

Mr. McNAMARA. Mr. President, will the Senator from Illinois yield for several questions?

Mr. DIRKSEN. I yield.

Mr. McNAMARA. Is it not true that the States generally already do what is proposed by this amendment? In my experience, the States follow this procedure; they pay the bill when the claim is made, and later determine whether there is justification for the payment. Under the Senator's amendment, what is happening now would continue to happen. So it seems to me the amendment would not change a thing.

Mr. DIRKSEN. In the first place, Mr. President, I am not familiar with the provisions of the laws of all the States. But here on the floor of the Senate it was averred that there was a requirement to take a pauper's oath. I wish to make sure that the Federal law makes no such requirement of the States. Then those who made the statements about a pauper's oath will be free to return home and question their aid commissions, their Governor, and anyone else concerned, and say to them, "The Federal law does not require it; so now let us take it out of our State law, if it is included in the enabling act."

Mr. McNAMARA. Mr. President, will the Senator from Illinois yield again?

Mr. DIRKSEN. I yield.

Mr. McNAMARA. I repeat that this is what is happening now: The claimant is paid, generally, on the basis of statements he makes in his application, and later it is checked. Logically this follows, because the Kerr-Mills Act is based on need; and if there is need, proof is required. Whether it is called a pauper's oath or whether it is called something else, the facts are the same. Does not the Senator from Illinois agree that the amendment does not change anything from the present procedure?

I repeat that when there is a law based on need—as is true of the Kerr-Mills Act—there is a requirement to show the need. It can be called a pauper's oath or anything else.

Mr. DIRKSEN. If the Senator from Michigan is correct, then all the throbbing statements made on this floor when the Anderson-Javits proposal was before us would have no validity whatever.

Mr. McNAMARA. I do not agree. The Kerr-Mills Act is based on need, and the applicant is required to prove the need. The proof of need may take the form of a pauper's oath or some other form, but the effect is the same.

Mr. DIRKSEN. The Senator forgets that need is expressed in terms of the ownership or lack of ownership of assets or of a home, and so forth; and those things are set forth in the State law. In Illinois one can have an income of $1,800, if he is single, or a couple can have an income of $2,400, and can own a home and, in addition, can own $2,400 in assets, and still can be eligible to receive medical care—under our law.

Mr. McNAMARA. In some States.

Mr. DIRKSEN. I am talking about my State.

Mr. McNAMARA. I have no doubt that is true in Illinois. But it is not the general rule. In some States one who is to receive such aid can own little or nothing—not even enough funds to make possible a decent burial. But this amendment would not change that situation.

Mr. DIRKSEN. But I feel a responsibility to the people of my State. If it was not properly done—although I think it was properly done—I would return home and would render my supplications and apologies to the people of my State. So I wish to be sure that no one interprets the Kerr-Mills Act as requiring something which could be called a pauper's oath.

Mr. McNAMARA. I merely wish to say that any law based on need requires a showing of the need. It can be called a pauper's oath or it can be given some other name, but the facts are the same.

I thank the Senator from Illinois.

Mr. DIRKSEN. I wish to say that when we started with the Kerr-Mills Act, we made plain that need should be shown. Of course in that respect it differed from the Anderson-Javits proposal, under which everyone—regardless of his assets or estate or income—could qualify; it made no difference whether the person involved was Everett Dirksen or Bob Kerr or Mike Mansfield or Nelson Rockefeller or the richest man in the Nation; all would still be eligible, under the Anderson-Javits proposal, for medical care.

So we just recite some income limitations, and say, "Below this amount, you are entitled to receive this aid." And I think those are very generous proposals, to say the least.

Mr. McNAMARA. But this is not the general rule throughout the States. It might be the rule in Illinois, but it does not prevail in other States.

Mr. DIRKSEN. Well, it is in Illinois; and nearly every program of which I have any knowledge which provides a State-Federal basis tries to make the aid available, and then permits the State to assume its share of the responsibility. If Michigan is behind the parade, the Senator should go to Lansing and should importune his legislature.

Mr. McNAMARA. Then we would just go up the hill and come down again.

The trouble was that the States were not handling this matter in the manner in which the framers of the law thought it should be handled. So we would go up the hill and would come down again, and would still say it should be left to the States. So we would have accomplished nothing.

Mr. DIRKSEN. I simply remind my friend that since we are in the month of September, in a few days we shall observe the 175th anniversary of the Constitution of the United States; and if it does anything in addition to protecting the freedoms of the people, it sets up a framework of government beautifully checked and balanced, to which we refer as a State-Federal system; and the powers we enjoy here in the Senate are those which have been expressly delegated to the Central Government by the Constitution. All other powers are reserved. I try to see to it that that balance of State-Federal responsibility is carefully safeguarded. I think we did so very well in the Kerr-Mills Act; we made it a State-Federal system. And the people of Michigan ought to exercise their responsibility, even as we in the State of Illinois have done.

Mr. McNAMARA. It is not a question of the law to be applied to the State of Illinois or to the State of Michigan. I think perhaps the only justification for this law, if applied at the Federal level, will be that it applies to all the States. I know there are certain things that were not specifically delegated to the Federal Government; but there have been many changes since then. If we carry the original concept to a logical conclusion, we could not today have a Federal income-tax law. And if we leave everything to the States, we would have trouble with a conscription act in time of war.

So we have progressed very far from the time when that was the accepted theory of government.

In order to make this meaningful, I think there might be a further amendment. I hold one in my hand, and I suggest that the Senator from Illinois consider accepting it. The purpose is to strike out, at the end of paragraph (f), the period and the quotation marks, and to add:

Such statement shall be conclusive as to claimant's eligibility, and no action at law or equity shall be brought for the recovery of payments made after the filing and acceptance of such statement.

This goes a little further; but if anything is to be accomplished, I think this route must be followed.

I repeat that I think the Senator's amendment accomplishes nothing; I think it deals with the way this is operating now, for any law based on need will require a means test, or whatever else it may be called.

Mr. DIRKSEN. Mr. President, that is only a personal opinion.

However, I do not wish to have the next to the last statement the Senator from Michigan made stand—that we have departed from our basic concept of government. I do not agree, because in the Constitution there is a mandatory provision; and whenever either the Congress or the States initiate the action under that mandatory clause, then it is up to the people to decide whether the Constitution shall be amended—but always within the concept as laid down 175 years ago.

Mr. McNAMARA. I ask the Senator, What brought this up? The Senator from Illinois injected this question into the debate.

Mr. DIRKSEN. I think, if we looked at the reporter's notes, they would show that the Senator from Michigan indicated that, somehow, we had mysteriously departed from the sound Federal-State system; and we have not at any time in the history of the Republic.

When we speak about recovery, that would have to involve a suit in equity or law. It would have to be one of the two. I want to be sure no one will rise in his place and say that under the Kerr-Mills Act a pauper's oath is required, but leave it to the State as to what it will propose to do about it.

Mr. McNAMARA. Mr. President, if the Senator will yield, I will rise in my place and say that I construe it in just that way. It is a pauper's oath. One may call it something else; it is a requirement based on need, and the Senator does not change it with his amendment.

Mr. DIRKSEN. Mr. President, it is so wonderful that, under our Constitution, my friend can cherish that opinion to his heart's content.

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

Mr. DIRKSEN. I yield.

Mr. SMATHERS. I wish to congratulate the able Senator from Illinois for offering this amendment. I believe it is both desirable and needed.

I think it should be very clear that, so far as the Federal Government is concerned, and as the Senator from Illinois has so well stated, there should be no requirement of a pauper's oath insofar as Federal participation is concerned. I think it should be left to the States as to how generous or ungenerous they wish to be in applying their funds under the Kerr-Mills law to take care of elderly people who might be in need of medical attention.

The State Legislature of Florida has not seen fit so far to implement the Kerr-Mills Act, but I am very hopeful that in the forthcoming session in 1963 it will implement it, and that it will follow the same pattern which the State of Illinois is following, which I think is quite fair, and certainly generous in most respects. I think this is the kind of medical program we ought to have—a program that provides total medical care for those in need.

I cannot see any earthly reason why the richest man in my State or in my community, who probably does not want it to start with, should have other citizens pay for his medical bills. On the other hand, I do not like the idea of requiring elderly persons to take an oath and state they are completely without funds, that they are destitute, in order to get such medical aid. This amendment, which would leave it to the States to decide how generous they want to be, is very desirable. The State of Illinois has set standards which are eminently generous. One can own his own home and have an income with, of course, limitation and still be eligible for benefits under the Kerr-Mills Act.

We should make it abundantly clear, and I am hopeful all States will do likewise, that none of our senior citizens be required to take a pauper's oath to avail themselves of needed medical care when it is obvious from their financial position that a need exists. These people should not be deprived of living in honor and decency or be required to dispose of their property to obtain such medical care under this law.

I wish to associate myself with the remarks made by the Senator from Illinois, and approve everything he said, including the statement that we must not destroy the Federal-State relationship. This system has over the past proved to be the best way to take care of problems which in essence, and basically, are local problems. It is desirable to get the county, State, and Federal Governments in cooperation with each other to provide medical care for elderly people in need, without requiring them to take a humiliating pauper's oath, or to indicate a complete lack of funds, which they do not want to do, and should not be required to do.

The pending amendment, which would allow the States to set the standards, is eminently desirable; and I hope the committee and the Senate will accept the amendment of the Senator from Illinois.

Mr. KERR. Mr. President, I am aware of every word the distinguished Senator from Illinois has said. I am aware that this is an insistence, but not a social security insistence, for a medical care amendment to the tax bill. I must say, however, that the Senator from Oklahoma is in entire accord with what the Senator from Illinois has said and with the language of the amendment, and therefore finds himself unable to offer any opposition to its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. DIRKSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HRUSKA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERR. Mr. President, I call up my amendments 9–4–62—C.

The PRESIDING OFFICER. The amendments offered by the Senator from Oklahoma will be stated.

The legislative clerk proceeded to read the amendments.

Mr. KERR. Mr. President, I ask unanimous consent that the amendments be printed in the RECORD, without their being read.

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

On page 131, line 11, strike out "or".

On page 131, line 14, strike out "stock." and insert "stock, or".

On page 131, after line 14, insert the following:

"(D) received on obligations acquired as a result of the disposition of a trade or business actively conducted by the taxpayer in a foreign country or possession of the United States or as a result of the disposition of stock or obligations of a corporation in which the taxpayer owned at least 10 percent of the voting stock."

On page 140, beginning with line 16, strike out all through line 3 on page 141 and insert the following:

"(c) EFFECTIVE DATES.—

"(1) AMENDMENT TO SECTION 911.—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1962, but only with respect to amounts—

"(A) received after March 12, 1962, which are attributable to services performed after December 31, 1962, or

"(B) received after December 31, 1962, which are attributable to services performed on or before December 31, 1962, unless on March 12, 1962, there existed a right (whether forfeitable or nonforfeitable) to receive such amounts.

"(2) AMENDMENT TO SECTION 72(f).—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1962."

On page 196, line 20, strike out "5 years" and insert "one year".

On page 197, strike out lines 9 through 18 and insert the following:

"(3) SPECIAL RULE.—For purposes of this subpart, a United States shareholder of a controlled foreign corporation may, under regulations prescribed by the Secretary or his delegate, make the determinations under subsection (a)(2) of this section and under subsection (f) of section 954 as of the close of the years following the years referred to in such subsections, or as of the close of such longer period of time as such regulations may permit, in lieu of on the last day of such years. Any election under this paragraph made with respect to any taxable year shall apply to such year and to all succeeding taxable years unless the Secretary or his delegate consents to the revocation of such election.

"(4) EXCEPTION.—For purposes of this subpart, property shall not constitute qualified investments in less developed countries if

such property is disposed of within 6 months after the date of its acquisition."

On page 197, line 19, strike out "(4)" and insert "(5)".

On page 198, lines 2 and 3, strike out "which is created or organized under the laws of a less developed country and".

On page 198, lines 17 and 18, strike out "5 years" and insert "one year".

On page 238, line 16, strike out "An election" and insert the following: "A United States shareholder of an export trade corporation may, under regulations prescribed by the Secretary or his delegate, make the determinations under paragraphs (2) and (3) with respect to export trade assets described in section 971(e)(3) as of the close of the years following the years referred to in such paragraphs, or as of the close of such longer period of time as such regulations may permit, in lieu of on the last day of such years and in lieu of on the day prescribed in the preceding sentence. Any election".

On page 280, after line 10, insert the following:

"(c) DETERMINATION OF EARNINGS AND PROFITS.—

"(1) IN GENERAL.—For purposes of this section, the earnings and profits of any foreign corporation for any taxable year shall be determined according to rules substantially similar to those applicable to domestic corporations, under regulations prescribed by the Secretary or his delegate.

"(2) EARNINGS AND PROFITS OF SUBSIDIARIES OF FOREIGN CORPORATIONS.—If—

"(A) subsection (a) applies to a sale or exchange by a United States person of stock of a foreign corporation and, by reason of the ownership of the stock sold or exchanged, such person owned within the meaning of section 958(a)(2) stock of any other foreign corporation; and

(B) such person owned, within the meaning of section 958(a), or was considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such other foreign corporation at any time during the 5-year period ending on the date of the sale or exchange when such other foreign corporation was a controlled foreign corporation (as defined in section 957),

then, for purposes of this section, the earnings and profits of the foreign corporation the stock of which is sold or exchanged which are attributable to the stock sold or exchanged shall be deemed to include the earnings and profits of such other foreign corporation which—

"(C) are attributable (under regulations prescribed by the Secretary or his delegate) to the stock of such other foreign corporation which such person owned within the meaning of section 958(a)(2) (by reason of his ownership within the meaning of section 958(a)(1)(A) of the stock sold or exchanged) on the date of such sale or exchange; and

"(D) were accumulated in taxable years of such other corporation beginning after December 31, 1962, and during the period or periods—

"(i) such other corporation was a controlled foreign corporation, and

"(ii) such person owned within the meaning of section 958(a)(2) the stock of such other foreign corporation."

On page 280, line 11, strike out "(c) SPECIAL RULES" and insert "(d) EXCLUSIONS FROM EARNINGS AND PROFITS".

On page 281, beginning with line 12, strike out all through line 3 on page 282 and insert the following: "corporation (as defined in section 902(d)), if the stock sold or exchanged was owned for a continuous period of at least 10 years, ending with the date of the sale or exchange, by the United States person who sold or exchanged such stock."

On page 283, after line 17, insert the following:

"(e) SALES OR EXCHANGES OF STOCK IN CERTAIN DOMESTIC CORPORATIONS.—Under regulations prescribed by the Secretary or his delegate, if—

"(1) a United States person sells or exchanges stock of a domestic corporation, or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock, and

"(2) such domestic corporation was formed or availed of principally for the holding, directly or indirectly, of stock of one or more foreign corporations,

such sale or exchange shall, for purposes of this section, be treated as a sale or exchange of the stock of the foreign corporation or corporations held by the domestic corporation."

On page 283, line 18, strike out "(d)" and "(f)".

On page 284, line 8, strike out "(e)" and insert "(g)".

Mr. KERR. Mr. President, this is a series of amendments, a number of which are purely technical, a number of which are clarifying, some of which are corrective.

I ask unanimous consent that they may be adopted en bloc, and become a part of the text of the bill and subject to amendment by any Senator who desires to offer amendments with reference thereto.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments will be considered en bloc. Without objection, they are agreed to en bloc.

The bill is open to further amendment.

Mr. DIRKSEN. Mr. President, I propose at this time to submit as an amendment H.R. 10, but before doing so, I think we ought to have a quorum call.

Mr. MANSFIELD. I suggest that the Senator have the amendment laid before the Senate.

Mr. DIRKSEN. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIRKSEN. Before having the amendment laid before the Senate, I would like to talk to the distinguished Senator from Tennessee [Mr. GORE], and then I shall lay down H.R. 10 as an amendment to the bill. I know that a motion to table will be in order immediately after someone gets the floor for that purpose, and I wonder if we could have some understanding as to whether or not a given amount of time can be allotted to it before a motion to table, if any is contemplated, is made. I think there are Senators on this side who want to be heard.

Mr. MANSFIELD. Mr. President, to remove any doubt in the Senator's mind—and I am sure there is no doubt in his mind—a motion to table will be made.

How much time would the Senator like to have in a limitation of debate?

Mr. DIRKSEN. Speaking for myself, I would want to have 15 minutes. The distinguished Senator from Florida, who is the actual author of this proposal, will doubtless want to speak on it.

Mr. MANSFIELD. Would the Senator agree to an hour's limitation, 40 minutes on his side and 20 minutes on the other side?

Mr. DIRKSEN. I think that would be fair.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that 1½ hours be allocated to the consideration of the amendment involving H.R. 10, 1 hour to be allocated to the minority leader, and one-half hour to the majority leader. I feel certain that some of the time I would be allotted could be allocated to Senators who wish to speak.

Mr. GORE. Mr. President, reserving the right to object, as I understand the Senator's request, it relates only to the amount of debate before the motion to lay the amendment on the table.

Mr. MANSFIELD. That is correct.

Mr. GORE. In the perhaps unlikely event that the motion is not agreed to, then the limitation of time would not be effective?

Mr. MANSFIELD. That is correct. Is that agreeable?

Mr. DIRKSEN. Yes.

Mr. GORE. Reserving the right to object, Mr. President—and I shall not object—in view of the fact that there is to be a limitation of time before the motion to table, I wonder if the distinguished majority leader and distinguished minority leader would consider it advisable to have a brief quorum call, to alert other Senators that such a proposal is being made. It is a little out of the ordinary.

Mr. MANSFIELD. If the Senator wishes to do so, that is all right; but the procedure is not out of the ordinary. I think we have cleared it with the proponents and the opponents. I think nobody's mind would be changed. I am merely trying to make it possible for us to get out sometime and to get home.

Mr. GORE. I shall not assume any responsibility for other Senators. So far as I am concerned, I have no objection. I was merely making the suggestion that it was a little unusual.

Mr. DIRKSEN. I think it is quite appropriate that there be a short quorum call and that the staff notify Senators that the amendments embodying the provisions of H.R. 10 will be before the Senate.

Mr. MANSFIELD. Mr. President, I wish to say—and I hope this will be taken in the right way, and I hope all Senators will understand—that, so far as I am concerned, I do not intend to spend all day on these amendments, because there are other amendments which must be considered, also.

Mr. GORE Yes.

Mr. MANSFIELD. As Senators know, a motion to table is in order at any time that a Senator who so desires can obtain the floor.

Mr. GORE. I do not object.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that further proceedings under the quorum call may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIRKSEN. Mr. President, I offer my amendments identified as "8–23–62—K."

The PRESIDING OFFICER. The amendments will be identified for the information of the Senate.

The LEGISLATIVE CLERK. On page 391, after line 21, it is proposed to insert a new section 27, "Self-Employed Individuals Voluntary Pension Plans."

The amendments are as follows:

On page 391, after line 21, insert the following new section:

"SEC. 27. SELF-EMPLOYED INDIVIDUALS VOLUNTARY PENSION PLANS.

"Section 401 of the Internal Revenue Code of 1954 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended—

"(1) by adding at the end of paragraph (5) of subsection (a) the following new sentence: 'For purposes of this paragraph and paragraph (10), the total compensation of an individual who is an employee within the meaning of subsection (c)(1) means such individual's earned income (as defined in subsection (c)(2)), and the basic or regular rate of compensation of such an individual shall be determined, under regulations prescribed by the Secretary or his delegate, with respect to that portion of his earned income which bears the same ratio to his earned income on the basic or regular compensation of the employees under the plan bears to the total compensation of such employees.';

"(2) by adding at the end of subsection (a) the following new paragraphs:

"'(7) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that, upon its termination or upon complete discontinuance of contributions under the plan, the rights of all employees to benefits secured to the date of such termination or discontinuance, to the extent then funded, or the amounts credited to the employees' accounts, are nonforfeitable. This paragraph shall not apply to benefits or contributions which, under provisions of the plan adopted pursuant to regulations prescribed by the Secretary or his delegate to preclude the discrimination prohibited by paragraph (4), may not be used for designated employees in the event of early termination of the plan.

"'(8) A trust forming part of a pension plan shall not constitute a qualified trust under this section unless the plan provides that forfeitures must not be applied to increase the benefits any employee would otherwise receive under the plan.

"'(9) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of subsection (c)(1), a trust forming part of such plan shall not constitute a qualified trust under this section unless, under the plan, the entire interest of each employee—

"'(A) either will be distributed to him not later than his taxable year in which he attains the age of 70½ years, or, in the case of an employee other than an owner-employee (as defined in subsection (c)(3)), in which he retires, whichever is the later, or

"'(B) will be distributed, commencing not later than such taxable year, (i) in accordance with regulations prescribed by the Secretary or his delegate, over the life of such employee or over the lives of such employee and his spouse, or (ii) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and his spouse.

"'(10) In the case of a plan which provides contributions or benefits for employees some or all of whom are owner-employees (as defined in subsection (c)(3))—

"'(A) paragraph (3) and the first and second sentences of paragraph (5) shall not apply, but—

"'(i) such plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the contributions or benefits of or on behalf of employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, and

"'(ii) such plan shall not be considered discriminatory within the meaning of paragraph (4) solely because under the plan contributions described in subsection (e)(3)(A) which are in excess of the amounts which may be deducted under section 404 (determined without regard to section 404(a)(10)) for the taxable year may be made on behalf of any owner-employee; and

"'(B) a trust forming a part of such plan shall constitute a qualified trust under this section only if the requirements in subsection (d) are also met.'; and

"(3) by redesignating subsection (c) as subsection (h) and inserting after subsection (b) the following new subsections:

"'(c) DEFINITIONS AND RULES RELATING TO SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—For purposes of this section—

"'(1) EMPLOYEE.—The term "employee" includes, for any taxable year, an individual who has earned income (as defined in paragraph (2)) for the taxable year. To the extent provided in regulations prescribed by the Secretary or his delegate, such term also includes, for any taxable year—

"'(A) an individual who would be an employee within the meaning of the preceding sentence but for the fact that the trade or business carried on by such individual did not have net profits for the taxable year, and

"'(B) an individual who has been an employee within the meaning of the preceding sentence for any prior taxable year.

"'(2) EARNED INCOME.—

"'(A) IN GENERAL.—The term "earned income" means the net earnings from self-employment (as defined in section 1402(a)) to the extent that such net earnings constitute earned income (as defined in section 911(b) but determined with the application of subparagraph (B)), but such net earnings shall be determined—

"'(i) without regard to paragraphs (4) and (5) of section 1402(c),

"'(ii) in the case of any individual who is treated as an employee under sections 3121(d)(2)(A), (C), or (D), without regard to paragraph (2) of section 1402(c), and

"'(iii) without regard to items which are not included in gross income for purposes of this chapter, and the deductions properly allocable to or chargeable against such items. For purposes of subparagraph (A), sections 911(b) and 1402, as in effect for a taxable year ending on December 31, 1961, and subparagraph (B), as in effect for a taxable year beginning on January 1, 1962, shall be treated as having been in effect for all taxable years ending before such date.

"'(B) EARNED INCOME WHEN BOTH PERSONAL SERVICES AND CAPITAL ARE MATERIAL INCOME-PRODUCING FACTORS.—In applying section 911(b) for purposes of subparagraph (A), in the case of an individual who is an employee within the meaning of paragraph (1) and who is engaged in a trade or business in which both personal services and capital are material income-producing factors and with respect to which the individual actually renders personal services on a full-time, or substantially full-time, basis, so much of his share of the net profits of such trade or business as does not exceed $2,500 shall be considered as earned income. In the case of any such individual who is engaged in more than one trade or business with respect to which he actually renders substantial personal services, if with respect to all such trades or businesses he actually renders personal services on a full-time, or substantially full-time, basis, there shall be considered as earned income with respect to the trades or businesses in which both personal services and capital are material income-producing factors—

"'(i) so much of his share of the net profits of such trades or businesses as does not exceed $2,500, reduced by

"'(ii) his share of the net profits of any trade or business in which only personal services is a material income-producing factor.

The preceding sentences shall not be construed to reduce the share of net profits of any trade or business which under the second sentence of section 911(b) would be considered as earned income of any such individual.

"'(3) OWNER-EMPLOYEE.—The term "owner employee" means an employee who—

"'(A) owns the entire interest in an unincorporated trade or business, or

"'(B) in the case of a partnership, is a partner who owns more than 10 percent of either the capital interest or the profits interest in such partnership.

To the extent provided in regulations prescribed by the Secretary or his delegate, such term also means an individual who has been an owner-employee within the meaning of the preceding sentence.

"'(4) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).

"'(5) CONSTRUCTIVE OWNERSHIP.—An individual shall be treated as owning any interest in an unincorporated trade or business which is owned, directly or indirectly, by his spouse or minor children. An individual who owns any interest in an unincorporated trade or business or is an employee of such trade or business shall be treated as owning any interest in such unincorporated trade or business which is owned, directly or indirectly, by his ancestors or lineal descendants. Any interest treated as owned by any individual by reason of the application of the preceding sentences shall not be treated as owned by him for the purpose of applying such sentences in order to make any other individual the constructive owner of such interest. For purposes of this paragraph, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"'(6) CONTRIBUTIONS ON BEHALF OF OWNER-EMPLOYEES.—The term "contribution on behalf of an owner-employee" includes, except as the context otherwise requires, a contribution under a plan—

"'(A) by the employer for an owner-employee, and

"'(B) by an owner-employee as an employee.

"'(d) ADDITIONAL REQUIREMENTS FOR QUALIFICATION OF TRUSTS AND PLANS BENEFITING OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the following requirements of this subsection are met by the trust and by the plan of which such trust is a part:

"'(1) In the case of a trust which is created on or after the date of the enactment of this subsection, or which was created before such date but is not exempt from tax under section 501(a) as an organization described in subsection (a) on the day before such date, the trustee is a bank, but a person (including the employer) other than a bank may be granted, under the trust instrument, the power to control the investment of the

trust funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, and exchanges). This paragraph shall not apply to a trust created or organized outside the United States before the date of the enactment of this subsection if, under section 402(c), it is treated as exempt from tax under section 501(a) on the day before such date. For purposes of this paragraph, the term "bank" means a bank as defined in section 581, a corporation which under the laws of the State of its incorporation is subject to supervision and examination by the commissioner of banking or other officer of such State in charge of the administration of the banking laws of such State, and, in the case of a trust created or organized outside the United States, a bank or trust company, wherever incorporated, exercising fiduciary powers and subject to supervision and examination by governmental authority.

"'(2) Under the plan—

"'(A) the employees' rights to or derived from the contributions under the plan are nonforfeitable at the time the contributions are paid to or under the plan; and

"'(B) in the case of a profit-sharing plan, there is a definite formula for determining the contributions to be made by the employer on behalf of employees (other than owner-employees).

Subparagraph (A) shall not apply to contributions which, under provisions of the plan adopted pursuant to regulations prescribed by the Secretary or his delegate to preclude the discrimination prohibited by subsection (a)(4), may not be used to provide benefits for designated employees in the event of early termination of the plan.

"'(3) The plan benefits each employee having a period of employment of 3 years or more. For purposes of the preceding sentence, the term "employee" does not include any employee whose customary employment is for not more than 20 hours in any one week or is for not more than 5 months in any calendar year.

"'(4) Under the plan—

"'(A) contributions or benefits are not provided for any owner-employee unless such owner-employee has consented to being included under the plan; and

"'(B) no benefits may be paid to any owner-employee, except in the case of his becoming disabled (within the meaning of section 213(g)(3)), prior to his attaining the age of 59½ years.

"'(5) The plan does not permit—

"'(A) contributions to be made by the employer on behalf of any owner-employee in excess of the amounts which may be deducted under section 404 (determined without regard to section 404(a)(10)) for the taxable year;

"'(B) in the case of a plan which provides contributions or benefits only for owner-employees, contributions to be made on behalf of any owner-employee in excess of the amounts which may be deducted under section 404 (determined without regard to section 404(a)(10)) for the taxable year; and

"'(C) if a distribution under the plan is made to any employee and if any portion of such distribution is an amount described in section 72(m)(5)(A)(i), contributions to be made on behalf of such employee for the 5 taxable years succeeding the taxable year in which such distribution is made.

Subparagraphs (A) and (B) shall not apply to any contribution which is not considered to be an excess contribution (as defined in subsection (e)(1)) by reason of the application of subsection (e)(3).

"'(6) Except as provided in this paragraph, the plan meets the requirements of subsection (a)(4) without taking into account for any purpose contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, as amended, or any other Federal or State law. If—

"'(A) of the contributions deductible under section 404 (determined without regard to section 404(a)(10)), not more than one-third is deductible by reason of contributions by the employer on behalf of owner-employees, and

"'(B) taxes paid by the owner-employees under chapter 2 (relating to tax on self-employment income), and the taxes which would be payable under such chapter 2 by the owner-employees but for paragraphs (4) and (5) of section 1402(c), are taken into account as contributions by the employer on behalf of such owner-employees.

then taxes paid under section 3111 (relating to tax on employers) with respect to an employee may, for purposes of subsection (a)(4), be taken into account as contributions by the employer for such employee under the plan.

"'(7) Under the plan, if an owner-employee dies before his entire interest has been distributed to him, or if distribution has been commenced in accordance with subsection (a)(9)(B) to his surviving spouse and such surviving spouse dies before his entire interest has been distributed to such surviving spouse, his entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within 5 years after his death (or the death of his surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence shall not apply if distribution of the interest of an owner-employee has commenced and such distribution is for a term certain over a period permitted under subsection (a)(9)(B)(ii).

"'(8) Under the plan—

"'(A) any contribution which is an excess contribution, together with the income attributable to such excess contribution, is (unless subsection (e)(2)(E) applies) to be repaid to the owner-employee on whose behalf such excess contribution is made;

"'(B) if for any taxable year the plan does not, by reason of subsection (e)(2)(A), meet (for purposes of section 404) the requirements of this subsection with respect to an owner-employee, the income for the taxable year attributable to the interest of such owner-employee under the plan is to be paid to such owner-employee; and

"'(C) the entire interest of an owner-employee is to be repaid to him when required by the provisions of subsection (e)(2)(E).

"'(9)(A) If the plan provides contributions or benefits for an owner-employee who controls, or for two or more owner-employees who together control, the trade or business with respect to which the plan is established, and who also control as an owner-employee or as owner-employees one or more other trades or businesses, such plan and the plans established with respect to such other trades or businesses, when coalesced, constitute a single plan which meets the requirements of subsection (a) (including paragraph (10) thereof) and of this subsection with respect to the employees of all such trades or businesses (including the trade or business with respect to which the plan intended to qualify under this section is established).

"'(B) For purposes of subparagraph (A), an owner-employee, or two or more owner-employees, shall be considered to control a trade or business if such owner-employee, or such two or more owner-employees together—

"'(i) own the entire interest in an unincorporated trade or business, or

"'(ii) in the case of a partnership, own more than 50 percent of either the capital interest or the profits interest in such partnership.

For purposes of the preceding sentence, an owner-employee, or two or more owner-employees, shall be treated as owning any interest in a partnership which is owned, directly or indirectly, by a partnership which such owner-employee, or such two or more owner-employees, are considered to control within the meaning of the preceding sentence.

"'(10) The plan does not provide contributions or benefits for any owner-employee who controls (within the meaning of paragraph (9)(B)), or for two or more owner-employees who together control, as an owner-employee or as owner-employees, any other trade or business, unless the employees of each trade or business which such owner-employee or such owner-employees control are included under a plan which meets the requirements of subsection (a) (including paragraph (10) thereof) and of this subsection, and provides contributions and benefits for employees which are not less favorable than contributions and benefits provided for owner-employees under the plan.

"'(11) Under the plan, contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.

"'(e) EXCESS CONTRIBUTIONS ON BEHALF OF OWNER-EMPLOYEES.—

"'(1) EXCESS CONTRIBUTION DEFINED.—For purposes of this section, the term "excess contribution" means, except as provided in paragraph (3)—

"'(A) if, in the taxable year, contributions are made under the plan only on behalf of owner-employees, the amount of any contribution made on behalf of any owner-employee which (without regard to this subsection) is not deductible under section 404 (determined without regard to section 404(a)(10)) for the taxable year; or

"'(B) if, in the taxable year, contributions are made under the plan on behalf of employees other than owner-employees—

"'(i) the amount of any contribution made by the employer on behalf of any owner-employee which (without regard to this subsection) is not deductible under section 404 (determined without regard to section 404(a)(10)) for the taxable year;

"'(ii) the amount of any contribution made by any owner-employee (as an employee) at a rate which exceeds the rate of contributions permitted to be made by employees other than owner-employees;

"'(iii) the amount of any contribution made by any owner-employee (as an employee) which exceeds the lesser of $2,500 or 10 percent of the earned income for such taxable year derived by such owner-employee from the trade or business with respect to which the plan is established; and

"'(iv) in the case of any individual on whose behalf contributions are made under more than one plan as an owner-employee, the amount of any contribution made by such owner-employee (as an employee) under all such plans which exceeds $2,500; and

"'(C) the amount of any contribution made on behalf of an owner-employee in any taxable year for which, under paragraph (2)(A) or (E), the plan does not (for purposes of section 404) meet the requirements of subsection (d) with respect to such owner-employee.

For purposes of this subsection, the amount of any contribution which is allocable (determined in accordance with regulations prescribed by the Secretary or his delegate) to the purchase of life, accident, health, or

other insurance shall not be taken into account.

"'(2) EFFECT OF EXCESS CONTRIBUTION.—

"'(A) IN GENERAL.—If an excess contribution (other than an excess contribution to which subparagraph (E) applies) is made on behalf of an owner-employee in any taxable year, the plan with respect to which such excess contribution is made shall, except as provided in subparagraphs (C) and (D), be considered, for purposes of section 404, as not meeting the requirements of subsection (d) with respect to such owner-employee for the taxable year and for all succeeding taxable years.

"'(B) INCLUSION OF AMOUNTS IN GROSS INCOME OF OWNER-EMPLOYEES.—For any taxable year for which any plan does not meet the requirements of subsection (d) with respect to an owner-employee by reason of subparagraph (A), the gross income of such owner-employee shall, for purposes of this chapter, include the amount of income for such taxable year attributable to the interest of such owner-employee under such plan.

"'(C) REPAYMENT WITHIN PRESCRIBED PERIOD.—Subparagraph (A) shall not apply to an excess contribution with respect to any taxable year, if, on or before the close of the 6-month period beginning on the day on which the Secretary or his delegate sends notice (by certified or registered mail) to the person to whom such excess contribution, the amount of such excess contribution, and the income attributable thereto, is repaid to the owner-employee on whose behalf such excess contribution was made. If the excess contribution is an excess contribution as defined in paragraph (1)(A) or (B)(i), or is an excess contribution as defined in paragraph (1)(C) with respect to which a deduction has been claimed under section 404, the notice required by the preceding sentence shall not be mailed prior to the time that the amount of the tax under this chapter of such owner-employee for the taxable year in which such excess contribution was made has been finally determined.

"'(D) REPAYMENT AFTER PRESCRIBED PERIOD.—If an excess contribution, together with the income attributable thereto, is not repaid within the 6-month period referred to in subparagraph (C), subparagraph (A) shall not apply to an excess contribution with respect to any taxable year beginning with the taxable year in which the person to whom such excess contribution was paid repays the amount of such excess contribution to the owner-employee on whose behalf such excess contribution was made, and pays to such owner-employee the amount of income attributable to the interest of such owner-employee which, under subparagraph (B), has been included in the gross income of such owner-employee for any prior taxable year.

"'(E) SPECIAL RULE IF EXCESS CONTRIBUTION WAS WILLFULLY MADE.—If an excess contribution made on behalf of an owner-employee is determined to have been willfully made, then—

"'(i) subparagraphs (A), (B), (C), and (D) shall not apply with respect to such excess contribution;

"'(ii) there shall be distributed to the owner-employee on whose behalf such excess contribution was willfully made his entire interest in all plans with respect to which he is an owner-employee; and

"'(iii) no plan shall, for purposes of section 404, be considered as meeting the requirements of subsection (d) with respect to such owner-employee for the taxable year in which it is determined that such excess contribution was willfully made and for the 5 taxable years following such taxable year.

"'(F) STATUTE OF LIMITATIONS.—In any case in which subparagraph (A) applies, the period for assessing any deficiency arising by reason of—

"'(i) the disallowance of any deduction under section 404 on account of a plan not meeting the requirements of subsection (d) with respect to the owner-employee on whose behalf an excess contribution was made, or

"'(ii) the inclusion, under subparagraph (B), in gross income of such owner-employee of income attributable to the interest of such owner-employee under a plan,

for the taxable year in which such excess contribution was made or for any succeeding taxable year shall not expire prior to 1 year after the close of the 6-month period referred to in subparagraph (C).

"'(3) CONTRIBUTIONS FOR PREMIUMS ON ANNUITY, ETC., CONTRACTS.—A contribution by the employer on behalf of an owner-employee shall not be considered to be an excess contribution within the meaning of paragraph (1), if—

"'(A) under the plan such contribution is required to be applied (directly or through a trustee) to pay premiums or other consideration for one or more annuity, endowment, or life insurance contracts on the life of such owner-employee issued under the plan,

"'(B) the amount of such contribution exceeds the amount deductible under section 404 (determined without regard to section 404(a)(10)) with respect to contributions made by the employer on behalf of such owner-employee under the plan, and

"'(C) the amount of such contribution does not exceed the average of the amounts which were deductible under section 404 (determined without regard to section 404(a)(10)) with respect to contributions made by the employer on behalf of such owner-employee under the plan (or which would have been deductible under such section if such section had been in effect) for the first 3 taxable years (i) preceding the year in which the last such annuity, endowment, or life insurance contract was issued under the plan and (ii) in which such owner-employee derived earned income from the trade or business with respect to which the plan is established, or for so many of such taxable years as such owner-employee was engaged in such trade or business and derived earned income therefrom.

In the case of any individual on whose behalf contributions described in subparagraph (A) are made under more than one plan as an owner-employee during any taxable year, the preceding sentence shall not apply if the amount of such contributions under all such plans for such taxable year exceeds $2,500. Any contribution which is not considered to be an excess contribution by reason of the application of this paragraph shall, for purposes of subparagraphs (B)(ii), (iii), and (iv) of paragraph (1), be taken into account as a contribution made by such owner-employee as an employee to the extent that the amount of such contribution is not deductible under section 404 (determined without regard to section 404(a)(10)) for the taxable year, but only for the purpose of applying such subparagraphs to other contribution made by such owner-employee as an employee.

"'(f) CERTAIN CUSTODIAL ACCOUNTS.—

"'(1) TREATMENT AS QUALIFIED TRUST.—For purposes of this title, a custodial account shall be treated as a qualified trust under this section, if—

"'(A) such custodial account would, except for the fact that it is not a trust, constitute a qualified trust under this section;

"'(B) the custodian is a bank (as defined in subsection (d)(1));

"'(C) the investment of the funds in such account (including all earnings) is to be made—

"'(i) solely in regulated investment company stock with respect to which an employee is the beneficial owner, or

"'(ii) solely in annuity, endowment, or life insurance contracts issued by an insurance company;

"'(D) the shareholder of record of any such stock described in subparagraph (C)(i) is the custodian or its nominee; and

"'(E) the contracts decribed in subparagraph (C)(ii) are held by the custodian until distributed under the plan.

For purposes of this title, in the case of a custodial account treated as a qualified trust under this section by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"'(2) DEFINITION.—For purposes of paragraph (1), the term "regulated investment company" means a domestic corporation which—

"'(A) is a regulated investment company within the meaning of section 851(a), and

"'(B) issues only redeemable stock.

"'(g) ANNUITY DEFINED.—For purposes of this section and sections 402, 403, and 404, the term "annuity" includes a face-amount certificate, as defined in section 2(a)(15) of the Investment Company Act of 1940 (15 U.S.C. sec. 80a–2); but does not include any contract or certificate issued after December 31, 1961, which is transferable, if any person other than the trustee of a trust described in section 401(a) which is exempt from tax under section 501(a) is the owner of such contract or certificate.'

"SEC. 28. DEDUCTIBILITY OF CONTRIBUTIONS TO PLANS.

"(a) INCLUSION OF SELF-EMPLOYED INDIVIDUALS.—Section 404(a) of the Internal Revenue Code of 1954 (relating to the deductibility of contributions to pension, annuity, profit-sharing, or stock bonus plans or plans of deferred compensation) is amended—

"(1) by striking out in paragraph (2) 'and (6),' and inserting in lieu thereof '(6), (7), and (8), and, if applicable, (9) and, in the case of a plan described in paragraph (9) of this subsection, which meets the requirements of section 401(a)(10) and of section 401(d) (other than paragraph (1)),'; and

"(2) by adding after paragraph (7) the following new paragraphs:

"'(8) SELF-EMPLOYED INDIVIDUALS.—In the case of a plan included in paragraph (1), (2), or (3) which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1), for purposes of this section—

"'(A) the term "employee" includes an individual who is an employee within the meaning of section 401(c)(1), and the employer of such individual is the person treated as his employer under section 401(c)(4);

"'(B) the term "earned income" has the meaning assigned to it by section 401(c)(2);

"'(C) the contributions to such plan on behalf of an individual who is an employee within the meaning of section 401(c)(1) shall be considered to satisfy the conditions of section 162 or 212 to the extent that such contributions do not exceed the earned income of such individual derived from the trade or business with respect to which such plan is established, and to the extent that such contributions are not allocable (determined in accordance with regulations prescribed by the Secretary or his delegate) to the purchase of life, accident, health, or other insurance; and

"'(D) any reference to compensation shall, in the case of an individual who is an employee within the meaning of section 401(c)(1), be considered to be a reference to the earned income of such individual derived from the trade or business with respect to which the plan is established.

"'(9) PLANS BENEFITING OWNER-EMPLOYEE.—In the case of a plan included in para-

graph (1), (2), or (3) which provides contributions or benefits for employees some or all of whom are owner-employees—

"'(A) the limitations provided by paragraphs (1), (2), (3), and (7) on the amounts deductible for any taxable year shall be computed, with respect to contributions on behalf of employees (other than owner-employees), as if such employees were the only employees for whom contributions and benefits are provided under the plan;

"'(B) the limitations provided by paragraphs (1), (2), (3), and (7) on the amounts deductible for any taxable year shall be computed, with respect to contributions on behalf of owner-employees—

"'(i) as if such owner-employees were the only employees for whom contributions and benefits are provided under the plan, and

"'(ii) without regard to paragraph (1)(D), the second and third sentences of paragraph (3), and the second sentence of paragraph (7); and

"'(C) the amounts deductible under paragraphs (1), (2), (3), and (7), with respect to contributions on behalf of any owner-employee, shall not exceed the applicable limitation provided in subsection (e).

For purposes of this paragraph and subsections (e) and (f), the term "owner-employee" has the meaning assigned to it by section 401(c)(3) (determined with the application of section 401(c)(5)).

"'(10) SPECIAL LIMITATION ON AMOUNT ALLOWED AS DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS.—Notwithstanding any other provision of this section, the amount allowable as a deduction under paragraphs (1), (2), (3), and (7) in any taxable year with respect to contributions made on behalf of an individual who is an employee within the meaning of section 401(c)(1) shall be an amount equal to—

"'(A) so much of the contributions made on behalf of such individual in such taxable year which are deductible under such paragraphs (determined with the application of paragraph (9) and of subsection (e) but without regard to this paragraph) as does not exceed $1,000, plus

"'(B) one-half of the contributions made on behalf of such individual in such taxable year which are deductible under such paragraphs (as so determined) as exceeds $1,000.

For purposes of section 401, the amount which may be deleted, or the amount deductible, under this section with respect to contributions made on behalf of such individual shall be determined without regard to the preceding sentence.'

"(b) LIMITATIONS ON DEDUCTIBLE CONTRIBUTIONS ON BEHALF OF OWNER-EMPLOYEES.—Section 404 of the Internal Revenue Code of 1954 (relating to the deductibility of contributions to pension, annuity, profit-sharing, or stock bonus plans or plans of deferred compensation) is amended by adding after subsection (d) the following new subsections:

"'(e) SPECIAL LIMITATIONS FOR OWNER-EMPLOYEES.—

"'(1) IN GENERAL.—In the case of a plan included in subsection (a) (1), (2), or (3), which provides contributions or benefits for employees some or all of whom are owner-employees, the amounts deductible under subsection (a) (determined without regard to paragraph (10) thereof) in any taxable year with respect to contributions on behalf of any owner-employee shall, subject to the provisions of paragraph (2), not exceed $2,500, or 100 percent of the earned income derived by such owner-employee from the trade or business with respect to which the plan is established, whichever is the lesser.

"'(2) CONTRIBUTIONS MADE UNDER MORE THAN ONE PLAN.—

"'(A) OVERALL LIMITATION.—In any taxable year in which amounts are deductible with respect to contributions under two or more plans on behalf of an individual who is an owner-employee with respect to such plans, the aggregate amount deductible for such taxable year under all such plans with respect to contributions on behalf of such owner-employee (determined without regard to subsection (a)(10)) shall not exceed $2,500.

"'(B) ALLOCATION OF AMOUNTS DEDUCTIBLE.—In any case in which the amounts deductible under subsection (a) (within the application of the limitations of this subsection) with respect to contributions made on behalf of an owner-employee under two or more plans are, by reason of subparagraph (A), less than the amounts deductible under such subsection determined without regard to such subparagraph, the amount deductible under subsection (a) (determined without regard to paragraph (10) thereof) with respect to such contributions under each such plan shall be determined in accordance with regulations prescribed by the Secretary or his delegate.

"'(B) CONTRIBUTIONS ALLOCABLE TO INSURANCE PROTECTION.—For purposes of this subsection, contributions which are allocable (determined under regulations prescribed by the Secretary or his delegate) to the purchase of life, accident, health, or other insurance shall not be taken into account.

"'(f) CERTAIN LOAN REPAYMENTS CONSIDERED AS CONTRIBUTIONS.—For purposes of this section, any amount paid, directly or indirectly, by an owner-employee in repayment of any loan which under section 72(m)(4)(B) was treated as an amount received under a contract purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) or purchased as a part of a plan described in section 403(a) shall be treated as a contribution to which this section applies on behalf of such owner-employee to such trust or to or under such plan.'

"SEC. 29. TAXABILITY OF DISTRIBUTIONS.

"(a) EMPLOYEES' ANNUITIES.—Section 72(d)(2) of the Internal Revenue Code of 1954 (relating to employees' annuities) is amended to read as follows:

"'(2) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (1).—For purposes of paragraph (1)—

"'(A) if the employee died before any amount was received as an annuity under the contract, the words "receivable by the employee" shall be read as "receivable by a beneficiary of the employee"; and

"'(B) any contribution made with respect to the contract while the employee is an employee within the meaning of section 401(c)(1) which is not allowed as a deduction under section 404 shall be treated as consideration for the contract contributed by the employee.'

"(b) SPECIAL RULES RELATING TO SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—Section 72 of the Internal Revenue Code of 1954 (relating to annuities, etc.) is amended by redesignating subsection (m) as subsection (o) and by inserting after subsection (l) the following new subsections:

"'(m) SPECIAL RULES APPLICABLE TO EMPLOYEE ANNUITIES AND DISTRIBUTIONS UNDER EMPLOYEE PLANS.—

"'(1) CERTAIN AMOUNTS RECEIVED BEFORE ANNUITY STARTING DATE.—Any amounts received under an annuity, endowment, or life insurance contract before the annuity starting date which are not received as an annuity (within the meaning of subsection (e)(2)) shall be included in the recipient's gross income for the taxable year in which received to the extent that—

"'(A) such amounts, plus all amounts theretofore received under the contract and includible in gross income under this paragraph, do not exceed

"'(B) the aggregate premiums or other consideration paid for the contract while the employee was an owner-employee which were allowed as deductions under section 404 for the taxable year and all prior taxable years. Any such amounts so received which are not includible in gross income under this paragraph shall be subject to the provisions of subsection (e).

"'(2) COMPUTATION OF CONSIDERATION PAID BY THE EMPLOYEE.—In computing—

"'(A) the aggregate amount of premiums or other consideration paid for the contract for purposes of subsection (c)(1)(A) (relating to the investment in the contract),

"'(B) the consideration for the contract contributed by the employee for purposes of subsection (d)(1) (relating to employee's contributions recoverable in 3 years), and

"'(C) the aggregate premiums or other consideration paid for purposes of subsection (e)(1)(B) (relating to certain amounts not received as an annuity),

any amount allowed as a deduction with respect to the contract under section 404 which was paid while the employee was an employee within the meaning of section 401(c)(1) shall be treated as consideration contributed by the employer, and there shall not be taken into account any portion of the premiums or other consideration for the contract paid while the employee was an owner-employee which is properly allocable (as determined under regulations prescribed by the Secretary or his delegate) to the cost of life, accident, health, or other insurance.

"'(3) LIFE INSURANCE CONTRACTS.—

"'(A) This paragraph shall apply to any life insurance contract—

"'(i) purchased as a part of a plan described in section 403(a), or

"'(ii) purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) if the proceeds of such contract are payable directly or indirectly to a participant in such trust or to a beneficiary of such participant.

"'(B) Any contribution to a plan described in subparagraph (A)(i) or a trust described in subparagraph (A)(ii) which is allowed as a deduction under section 404, and any income of a trust described in subparagraph (A)(ii), which is determined in accordance with regulations prescribed by the Secretary or his delegate to have been applied to purchase the life insurance protection under a contract described in subparagraph (A), is includible in the gross income of the participant for the taxable year when so applied.

"'(C) In the case of the death of an individual insured under a contract described in subparagraph (A), an amount equal to the cash surrender value of the contract immediately before the death of the insured shall be treated as a payment under such plan or a distribution by such trust, and the excess of the amount payable by reason of the death of the insured over such cash surrender value shall not be includible in gross income under this section and shall be treated as provided in section 101.

"'(4) AMOUNTS CONSTRUCTIVELY RECEIVED.—

"'(A) ASSIGNMENTS OR PLEDGES.—If during any taxable year an owner-employee assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a trust described in section 401(a) which is exempt from tax under section 501(a) or any portion of the value of a contract purchased as part of a plan described in section 403(a), such portion shall be treated as having been received by such owner-employee as a distribution from such trust or as an amount received under the contract.

"'(B) LOANS ON CONTRACTS.—If during any taxable year, an owner-employee receives, directly or indirectly, any amount from any insurance company as a loan under a contract purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) or purchased as part of a plan described in section 403(a), and issued by such insurance company, such amount shall be treated as an amount received under the contract.

"'(5) PENALTIES APPLICABLE TO CERTAIN AMOUNTS RECEIVED BY OWNER-EMPLOYEES.—

"'(A) This paragraph shall apply—

"'(i) to amounts (other than any amount received by an individual in his capacity as a policyholder of an annuity, endowment, or life insurance contract which is in the nature of a dividend or similar distribution) which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) and which are received by an individual, who is, or has been, an owner-employee, before such individual attains the age of 59½ years, for any reason other than the individual's becoming disabled (within the meaning of section 213(g)(3)), but only to the extent that such amounts are attributable to contributions paid on behalf of such individual (whether or not paid by him) while he was an owner-employee,

"'(ii) to amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by an individual who is, or has been, an owner-employee, or by the successor of such individual, but only to the extent that such amounts are determined, under regulations prescribed by the Secretary or his delegate, to exceed the benefits provided for such individual under the plan formula, and

"'(iii) to amounts which are received, by an individual who is, or has been, an owner-employee, by reason of the distribution under the provisions of section 401(e)(2)(E) of his entire interest in all qualified trusts described in section 401(a) and in all plans described in section 403(a).

"'(B)(i) If the aggregate of the amounts to which this paragraph applies received by any person in his taxable year equals or exceeds $2,500, the increase in his tax for the taxable year in which such amounts are received and attributable to such amounts shall not be less than 110 percent of the aggregate increase in taxes, for the taxable year and the 4 immediately preceding taxable years, which would have resulted if such amounts had been included in such person's gross income ratably over such taxable years.

"'(ii) If deductions have been allowed under section 404 for contributions paid on behalf of the individual while he is an owner-employee for a number of prior taxable years less than 4, clause (i) shall be applied by taking into account a number of taxable years immediately preceding the taxable year in which the amount was so received equal to such lesser number.

"'(C) If subparagraph (B) does not apply to a person for the taxable year, the increase in tax of such person for the taxable year attributable to the amounts to which this paragraph applies shall be 110 percent of such increase (computed without regard to this subparagraph).

"'(D) Subparagraph (A)(ii) of this paragraph shall not apply to any amount to which section 402(a)(2) or 403(a)(2) applies.

"'(E) For special rules for computation of taxable income for taxable years to which this paragraph applies, see subsection (n)(3).

"'(6) OWNER-EMPLOYEE DEFINED.—For purposes of this subsection, the term "owner-employee" has the meaning assigned to it by section 401(c)(3) (determined with the application of section 401(c)(5)).

"'(n) TREATMENT OF CERTAIN DISTRIBUTIONS WITH RESPECT TO CONTRIBUTIONS BY SELF-EMPLOYED INDIVIDUALS.—

"'(1) APPLICATION OF SUBSECTION.—

"'(A) DISTRIBUTIONS BY EMPLOYEES' TRUST.—Subject to the provisions of subparagraph (C), this subsection shall apply to amounts distributed to a distributee, in the case of an employees' trust described in section 401(a) which is exempt from tax under section 501(a), if the total distributions payable to the distributee with respect to an employee are paid to the distributee within one taxable year of the distributee—

"'(i) on account of the employee's death,

"'(ii) after the employee has attained the age of 59½ years, or

"'(iii) after the employee has become disabled (within the meaning of section 213(g)(3)).

"'(B) ANNUITY PLANS.—Subject to the provisions of subparagraph (C), this subsection shall apply to amounts paid to a payee, in the case of an annuity plan described in section 403(a), if the total amounts payable to the payee with respect to an employee are paid to the payee within one taxable year of the payee—

"'(i) on account of the employee's death,

"'(ii) after the employee has attained the age of 59½ years, or

"'(iii) after the employee has become disabled (within the meaning of section 213(g)(3)).

"'(C) LIMITATIONS AND EXCEPTIONS.—This subsection shall apply—

"'(i) only with respect to so much of any distribution or payment to which (without regard to this subparagraph) subparagraph (A) or (B) applies as is attributable to contributions made on behalf of an employee while he was an employee within the meaning of section 401(c)(1), and

"'(ii) if the recipient is the employee on whose behalf such contributions were made, only if contributions which were allowed as a deduction under section 404 have been made on behalf of such employee while he was an employee within the meaning of section 401(c)(1) for 5 or more taxable years prior to the taxable year in which the total distributions payable or total amounts payable, as the case may be, are paid.

This subsection shall not apply to amounts described in clauses (ii) and (iii) of subparagraph (A) of subsection (m)(5) (but, in the case of amounts described in clause (ii) of such subparagraph, only to the extent that subsection (m)(5) applies to such amounts).

"'(2) LIMITATION OF TAX.—In any case to which this subsection applies, the tax attributable to the amounts to which this subsection applies for the taxable year in which such amounts are received shall not exceed whichever of the following is the greater:

"'(A) 5 times the increase in tax which would result from the inclusion in gross income of the recipient of 20 percent of so much of the amount so received as is includible in gross income, or

"'(B) 5 times the increase in tax which would result if the taxable income of the recipient for such taxable year equaled 20 percent of the amount of the taxable income of the recipient for such taxable year determined under paragraph (3)(A).

"'(3) DETERMINATION OF TAXABLE INCOME.—Notwithstanding section 63 (relating to definition of taxable income), for purposes only of computing the tax under this chapter attributable to amounts to which this subsection or subsection (m)(5) applies and which are includible in gross income—

"'(A) the taxable income of the recipient for the taxable year of receipt shall be treated as being not less than the amount by which (i) the aggregate of such amounts so includible in gross income exceeds (ii) the amount of the deductions allowed for such taxable year under section 151 (relating to deductions for personal exemptions); and

"'(B) in making ratable inclusion computations under paragraph (5)(B) of subsection (m), the taxable income of the recipient for each taxable year involved in such ratable inclusion shall be treated as being not less than the amount required by such paragraph (5)(B) to be treated as includible in gross income for such taxable year.

In any case in which the preceding sentence results in an increase in taxable income for any taxable year, the resulting increase in the taxes imposed by section 1 or 3 for such taxable year shall not be reduced by any credit under part IV of subchapter A (other than section 31 thereof) which, but for this sentence, would be allowable.'

"(c) CAPITAL GAINS TREATMENT OF CERTAIN EMPLOYEES' TRUSTS DISTRIBUTIONS.—Section 402(a)(2) of the Internal Revenue Code of 1954 (relating to capital gains treatment for certain distributions) is amended by adding at the end thereof the following new sentence: 'This paragraph shall not apply to distributions paid to any distributee to the extent such distributions are attributable to contributions made on behalf of the employee while he was an employee within the meaning of section 401(c)(1).'

"(d) CAPITAL GAINS TREATMENT OF CERTAIN EMPLOYEES' ANNUITY PAYMENTS.—Section 403(a) of the Internal Revenue Code of 1954 (relating to taxability of a beneficiary under a qualified annuity plan) is amended—

"(1) by striking out in paragraph (2)(A)(i) 'which meets the requirements of section 401(a)(3), (4), (5), and (6)' and inserting in lieu thereof 'described in paragraph (1)';

"(2) by adding at the end of paragraph (2)(A) the following new sentence: 'This subparagraph shall not apply to amounts paid to any payee to the extent such amounts are attributable to contributions made on behalf of the employee while he was an employee within the meaning of section 401(c)(1).'; and

"(3) by adding after paragraph (2) the following new paragraph:

"'(3) SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection, the term "employee" includes an individual who is an employee within the meaning of section 401(c)(1), and the employer of such individual is the person treated as his employer under section 401(c)(4).'

"SEC. 30. PLANS FOR PURCHASE OF UNITED STATES BONDS.

"(a) QUALIFIED BOND PURCHASE PLANS.—Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 (relating to deferred compensation, etc.) is amended by adding at the end thereof the following new section:

"'SEC. 405 QUALIFIED BOND PURCHASE PLANS.

"'(a) REQUIREMENTS FOR QUALIFICATION.—A plan of an employer for the purchase for and distribution to his employees or their beneficiaries of United States bonds described in subsection (b) shall constitute a qualified bond purchase plan under this section if—

"'(1) the plan meets the requirements of section 401(a)(3), (4), (5), (6), (7), and (8) and, if applicable, the requirements of section 401(a)(9) and (10) and of section 401(d) (other than paragraphs (1), (5)(B), and (8)); and

"'(2) contributions under the plan are used solely to purchase for employees or their beneficiaries United States bonds described in subsection (b).

"'(b) BONDS TO WHICH APPLICABLE.—

"'(1) CHARACTERISTICS OF BONDS.—This section shall apply only to a bond issued under the Second Liberty Bond Act, as amended, which by its terms, or by regulations prescribed by the Secretary under such Act—

"'(A) provides for payment of interest, or investment yield, only upon redemption;

"'(B) may be purchased only in the name of an individual;

"'(C) ceases to bear interest, or provide investment yield, not later than 5 years after the death of the individual in whose name it is purchased;

"'(D) may be redeemed before the death of the individual in whose name it is purchased only if such individual—

"'(i) has attained the age of 59½ years, or

"'(ii) has become disabled (within the meaning of section 213(g)(3)); and

"'(E) is nontransferable.

"'(2) MUST BE PURCHASED IN NAME OF EMPLOYEE.—This section shall apply to a bond described in paragraph (1) only if it is purchased in the name of the employee.

"'(c) DEDUCTION FOR CONTRIBUTIONS TO BOND PURCHASE PLANS.—Contributions paid by an employer to or under a qualified bond purchase plan shall be allowed as a deduction in an amount determined under section 404 in the same manner and to the same extent as if such contributions were made to a trust described in section 401(a) which is exempt from tax under section 501(a).

"'(d) TAXABILITY OF BENEFICIARY OF QUALIFIED BOND PURCHASE PLAN.—

"'(1) GROSS INCOME NOT TO INCLUDE BONDS AT TIME OF DISTRIBUTION.—For purposes of this chapter, in the case of a distributee of a bond described in subsection (b) under a qualified bond purchase plan, or from a trust described in section 401(a) which is exempt from tax under section 501(a), gross income does not include any amount attributable to the receipt of such bond. Upon redemption of such bond, the proceeds shall be subject to taxation under this chapter, but the provisions of section 72 (relating to annuities, etc.) and section 1232 (relating to bonds and other evidences of indebtedness) shall not apply.

"'(2) BASIS.—The basis of any bond received by a distributee under a qualified bond purchase plan—

"'(A) if such bond is distributed to an employee, or with respect to an employee, who at the time of purchase of the bond, was an employee other than an employee within the meaning of section 401(c)(1), shall be the amount of the contributions by the employee which were used to purchase the bond, and

"'(B) if such bond is distributed to an employee, or with respect to an employee, who, at the time of purchase of the bond, was an employee within the meaning of section 401(c)(1), shall be the amount of the contributions used to purchase the bond which were made on behalf of such employee and were not allowed as a deduction under subsection (c).

The basis of any bond described in subsection (b) received by a distributee from a trust described in section 401(a) which is exempt from tax under section 501(a) shall be determined under regulations prescribed by the Secretary or his delegate.

"'(e) CAPITAL GAINS TREATMENT NOT TO APPLY TO BONDS DISTRIBUTED BY TRUSTS.—Section 402(a)(2) shall not apply to any bond described in subsection (b) distributed to any distributee and, for purposes of applying such section, any such bond distributed to any distributee and any such bond to the credit of any employee shall not be taken into account.

"'(f) EMPLOYEE DEFINED.—For purposes of this section, the term "employee" includes an individual who is an employee within the meaning of section 401(c)(1), and the employer of such individual shall be the person treated as his employer under section 401(c)(4).

"'(g) PROOF OF PURCHASE.—At the time of purchase of any bond to which this section applies, proof of such purchase shall be furnished in such form as will enable the purchaser, and the employee in whose name such bond is purchased, to comply with the provisions of this section.

"'(h) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section.'

"(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

"'Sec. 405. Qualified bond purchase plans.'

"SEC. 31. PROHIBITED TRANSACTIONS.

"Section 503 of the Internal Revenue Code of 1954 (relating to prohibited transactions) is amended by adding at the end thereof the following new subsection:

"'(j) TRUSTS BENEFITING CERTAIN OWNER-EMPLOYEES.—

"'(1) PROHIBITED TRANSACTIONS.—In the case of a trust described in section 401(a) which is part of a plan providing contributions or benefits for employees some or all of whom are owner-employees (as defined in section 401(c)(3)) who control (within the meaning of section 401(d)(9)(B), determined with the application of section 401(c)(5)) the trade or business with respect to which the plan is established, the term "prohibited transaction" also means any transaction in which such trust, directly or indirectly—

"'(A) lends any part of the corpus or income of the trust to;

"'(B) pays any compensation for personal services rendered to the trust to;

"'(C) makes any part of its services available on a preferential basis to; or

"'(D) acquires for the trust any property from, or sells any property to;

any person described in subsection (c) or to any such owner-employee, a member of the family (as defined in section 267(c)(4)) of any such owner-employee, or a corporation controlled by any such owner-employee through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

"'(2) SPECIAL RULE FOR LOANS.—For purposes of the application of paragraph (1)(A), the following rules shall apply with respect to a loan made before the date of the enactment of this subsection which would be a prohibited transaction if made in a taxable year beginning after December 31, 1961:

"'(A) If any part of the loan is repayable prior to December 31, 1964, the renewal of such part of the loan for a period not extending beyond December 31, 1964, on the same terms, shall not be considered a prohibited transaction.

"'(B) If the loan is repayable on demand, the continuation of the loan beyond December 31, 1964, shall be considered a prohibited transaction.'

"SEC. 32. OTHER SPECIAL RULES, TECHNICAL CHANGES, AND ADMINISTRATIVE PROVISIONS

"(a) RETIREMENT INCOME CREDIT.—Section 37(c)(1) of the Internal Revenue Code of 1954 (relating to definition of retirement income) is amended—

"(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"'(A) pensions and annuities (including, in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which is exempt from tax under section 501(a)),'; and

"(2) by striking out 'and' at the end of subparagraph (C), by striking out 'or' at the end of subparagraph (D) and inserting in lieu thereof 'and', and by adding after subparagraph (D) the following new subparagraph:

"'(E) bonds described in section 405(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or'.

"(b) ADJUSTED GROSS INCOME.—Section 62 of the Internal Revenue Code of 1954 (relating to the definition of adjusted gross income) is amended by inserting after paragraph (6) the following new paragraph:

"'(7) PENSION, PROFIT-SHARING, ANNUITY, AND BOND PURCHASE PLANS OF SELF-EMPLOYED INDIVIDUALS.—In the case of an individual who is an employee within the meaning of section 401(c)(1), the deductions allowed by section 404 and section 405(c) to the extent attributable to contributions made on behalf of such individual.'

"(c) DEATH BENEFITS.—Section 101(b) of the Internal Revenue Code of 1954 (relating to employees' death benefits) is amended—

"(1) by striking out clause (ii) of paragraph (2)(B) and inserting in lieu thereof the following:

"'(ii) under an annuity contract under a plan described in section 403(a), or'; and

"(2) by adding at the end thereof the following new paragraph:

"'(3) SELF-EMPLOYED INDIVIDUAL NOT CONSIDERED AN EMPLOYEE.—For purposes of this subsection, the term "employee" does not include an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).'

"(d) AMOUNTS RECEIVED THROUGH ACCIDENT OR HEALTH INSURANCE.—Section 104(a) of the Internal Revenue Code of 1954 (relating to compensation for injuries or sickness) is amended by adding at the end thereof the following new sentence: 'For purposes of paragraph (3), in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1) (relating to self-employed individuals), contributions made on behalf of such individual while he was such an employee to a trust described in section 401(a) which is exempt from tax under section 501(a), or under a plan described in section 403(a), shall, to the extent allowed as deductions under section 404, be treated as contributions by the employer which were not includible in the gross income of the employee.'

"(e) AMOUNTS RECEIVED UNDER ACCIDENT AND HEALTH PLANS.—Section 105 of the Internal Revenue Code of 1954 (relating to amounts received under accident and health plans) is amended by adding at the end thereof the following new subsection:

"'(g) SELF-EMPLOYED INDIVIDUAL NOT CONSIDERED AN EMPLOYEE.—For purposes of this section, the term "employee" does not include an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).'

"(f) NET OPERATING LOSS DEDUCTION.—Section 172(d)(4) of the Internal Revenue Code of 1954 (relating to nonbusiness deductions of taxpayers other than corporations) is amended—

"(1) by striking out 'and' at the end of subparagraph (B);

"(2) by striking out the period at the end of subparagraph (C) and inserting '; and'; and

"(3) by adding after subparagraph (C) the following new subparagraph:

"'(D) any deduction allowed under section 404 or section 405(c) to the extent attributable to contributions which are made on behalf of an individual who is an employee within the meaning of section 401(c)

(1) shall not be treated as attributable to the trade or business of such individual.'

"(g) CERTAIN LIFE INSURANCE RESERVES.—Section 805(d)(1) of the Internal Revenue Code of 1954 (relating to pension plan reserves) is amended—

"(1) by striking out in subparagraph (B) 'meeting the requirements of section 401(a)(3), (4), (5), and (6) or' and inserting in lieu thereof 'described in section 403(a), or plans meeting'; and

"(2) by striking out in subparagraph (C) 'and (6)' and inserting in lieu thereof '(6), (7), and (8)'.

"(h) UNINCORPORATED BUSINESSES ELECTING TO BE TAXED AS CORPORATIONS.—Section 1361(d) of the Internal Revenue Code of 1954 (relating to unincorporated business enterprises electing to be taxed as domestic corporations) is amended by inserting before the period at the end thereof the following: 'other than an employee within the meaning of section 401(c)(1) (relating to self-employed individuals), or for purposes of section 405 (relating to qualified bond purchase plans) other than an employee described in section 405(f)'.

"(i) ESTATE TAX EXEMPTION OF EMPLOYEES' ANNUITIES.—Section 2039 of the Internal Revenue Code of 1954 (relating to exemption from the gross estate of annuities under certain trusts and plans) is amended—

"(1) by striking out in subsections (e)(2) 'met the requirements of section 401(a)(3), (4), (5), and (6)' and inserting 'was a plan described in section 403(a)'; and

"(2) by adding at the end of subsection (c) the following new sentence: 'For purposes of this subsection, contributions or payments on behalf of the decedent while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) shall be considered to be contributions or payments made by the decedent.'

"(j) GIFT TAX EXEMPTION OF EMPLOYEES' ANNUITIES.—Section 2517 of the Internal Revenue Code of 1954 (relating to exclusion from gift tax in case of certain annuities under qualified plans) is amended—

"(1) by striking out in subsection (a)(2) 'met the requirements of section 401(a)(3), (4), (5), and (6)' and inserting in lieu thereof 'was a plan described in section 403(a)'; and

"(2) by adding at the end of subsection (b) the following new sentence: 'For purposes of this subsection, payments or contributions on behalf of an individual while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in subsection (a)(1) or (2) shall be considered to be payments or contributions made by the employee.'

"(k) FEDERAL UNEMPLOYMENT TAX ACT.—Section 3306(b)(5) of the Internal Revenue Code of 1954 (relating to definition of wages) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"'(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a), or

"'(C) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a);'.

"(l) WITHHOLDING OF INCOME TAX.—Section 3401(a)(12) of the Internal Revenue Code of 1954 (relating to definition of wages) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"'(B) under or to an annuity plan, which, at the time of such payment, is a plan described in section 403(a); or

"'(C) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a).'

"(m) INFORMATION REQUIREMENTS.—

"(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"'SEC. 6047. INFORMATION RELATING TO CERTAIN TRUSTS AND ANNUITY AND BOND PURCHASE PLANS.

"'(a) TRUSTEES AND INSURANCE COMPANIES.—The trustee of a trust described in section 401(a) which is exempt from tax under section 501(a) to which contributions have been paid under a plan on behalf of any owner-employee (as defined in section 401(c)(3)), and each insurance company or other person which is the issuer of a contract purchased by such a trust, or purchased under a plan described in section 403(a), contributions for which have been paid on behalf of any owner-employee, shall file such returns (in such form and at such times), keep such records, make such identification of contracts and funds (and accounts within such funds), and supply such information, as the Secretary or his delegate shall by forms or regulations prescribe.

"'(b) OWNER-EMPLOYEES.—Every individual on whose behalf contributions have been paid as an owner-employee (as defined in section 401(c)(3))—

"'(1) to a trust described in section 401(a) which is exempt from tax under section 501(a), or

"'(2) to an insurance company or other person under a plan described in section 403(a),

shall furnish the trustee, insurance company, or other person, as the case may be, such information at such times and in such form and manner as the Secretary or his delegate shall prescribe by forms or regulations.

"'(c) EMPLOYEES UNDER QUALIFIED BOND PURCHASE PLANS.—Every individual in whose name a bond described in section 405(b)(1) is purchased by his employer under a qualified bond purchase plan described in section 405(a), or by a trust described in section 401(a) which is exempt from tax under section 501(a), shall furnish—

"'(1) to his employer or to such trust, and

"'(2) to the Secretary (or to such person as the Secretary may by regulations prescribe),

such information as the Secretary or his delegate shall by forms or regulations prescribe.

"'(d) CROSS REFERENCE.—

"'For criminal penalty for furnishing fraudulent information, see section 7207.'

"(2) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following:

"'Sec. 6047. Information relating to certain trusts and annuity and bond purchase plans.'

"(3) PENALTY.—Section 7207 of the Internal Revenue Code of 1954 (relating to fraudulent returns, statements, or other documents) is amended by adding at the end thereof the following new sentence: 'Any person required pursuant to section 6047(b) or (c) to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.'

"SEC. 33. EFFECTIVE DATE.

"The amendments made by this Act shall apply to taxable years beginning after July 31, 1963."

On page 391, line 22, strike out "27" and insert in lieu thereof "28".

Mr. DIRKSEN. Mr. President, the amendments have been modified from the printed form in one respect. As first submitted, the effective date was to be December 31, 1961. That has been modified to July 1, 1963.

Mr. MANSFIELD. Mr. President, I should like to renew the unanimous-consent request to the effect that there be 1½ hours allocated to the consideration of the amendments, 1 hour to be under the control of the distinguished minority leader and one-half hour to be under the control of the Senator from Montana.

Mr. CURTIS. Mr. President, reserving the right to object, the Senator from Nebraska will offer an amendment to the amendments offered by the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN]. What was the intent in reference to that?

Mr. MANSFIELD. I meant to limit debate on the amendment and amendments thereto.

We are trying to be reasonable as to the amount of time, because, as I have indicated, I will make a motion to table, and that is in order at any time.

Mr. CURTIS. Not a great deal of time would be desired, but I would want an assurance of having a short time to state the amendment. Whether it is voted on before the motion to table or after does not matter.

Mr. MANSFIELD. I am sure we could arrange that.

Mr. DIRKSEN. Yes. Time can be granted from the 1 hour.

Mr. CURTIS. Ten minutes would be satisfactory.

Mr. DIRKSEN. I have only one other request, for 15 minutes.

Mr. CURTIS. Ten minutes would be satisfactory.

Mr. DIRKSEN. I will take about 10 minutes.

Mr. CURTIS. I have no objection.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, the agreement is on the motion to table only.

Mr. DIRKSEN. Mr. President, there is no occasion for me to labor the proposal very long. I think merely to recite the history pretty well states the case. Actually, bills substantially like H.R. 10 have been before the House and Senate for the past 11 years.

Mr. MANSFIELD. Mr. President, with the concurrence of the distinguished minority leader, I should like to change the time of the agreement entered into by the Senate from "an hour and a half" to "not exceeding an hour and a half."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I thank the Senator from Illinois.

Mr. DIRKSEN. Mr. President, as I indicated, this is not a new question before the Congress. The first bill on this subject was introduced in 1951, and there have been at least six or more measures comparable and similar to H.R. 10 which have been considered at one time or another either by the House or the Senate, or by the Senate Finance

Committee or the House Committee on Ways and Means.

I believe the first bill passed the House on July 29, 1958, but there was no action taken in the Senate. The bill passed the House again in the 87th Congress.

In the first instance, when the first bill was passed by the House, in 1958, in the 85th Congress, it was approved by the Senate Finance Committee by a vote of 12 to 5.

The measure now before the Senate was approved by the Finance Committee August 25, 1961, by a vote of 14 to 3, and the bill has been on the Senate Calendar since September of last year. That means the bill has been on the calendar for nearly a year.

At this point I wish to pay my respects to, and to salute the distinguished Senator from Florida [Mr. SMATHERS], who has labored so long and earnestly with the measure. He is entitled to full credit, because what is before the Senate is really the so-called Keogh-Smathers bill, named after Representative KEOGH, of New York, and the distinguished Senator from Florida.

The purpose of the measure and the reason therefor are thoroughly set out in the report on the bill.

In 1942 legislation to encourage the establishment of pension funds was first enacted by the Congress for the benefit of people who operate in business and industry. I understand that 66,000 pension plans have been filed and are now in effect, covering approximately 20 million people, and that nearly a million people are added to those plans every year. If one adds to the private pension plans the plans for State officials and employees of local governments, for the Army, for the civil service, for railroad retirement, and so forth, an estimated 30 million people now receive benefits under a private plan or a public plan of some kind.

In addition, of course, there is social security.

But it seems that there has been one group in the country which has been forgotten. Those are the self-employed, which includes professional people—doctors, lawyers, small businessmen, farmers, and a great many others.

I could read a statement with respect to what the measure contains. The principle is very simple. In the case of the self-employed, they have the dual character of employer and employee, in order to carry out a principle that has been established in law. As the bill now recites, the entire amount of the first $1,000 that would be trusteed could be deducted and would be deductible for tax purposes. Of the remaining $1,500—since $2,500 is the limit—50 percent could be deducted, so the top would be $1,700, and $50 a year, which could be actually trusteed. It would become available at a given retirement date. When it would become available then, of course, it would become taxable.

I set out a statement in the RECORD on September 27, 1961, which contains an analysis of the bill. It is brief but sufficiently complete. Mr. President, I ask unanimous consent that the statement be printed at this point in my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DIRKSEN

ESTABLISHMENT OF VOLUNTARY PENSION PLANS BY SELF-EMPLOYED INDIVIDUALS

For the past 10 years I have followed with considerable interest H.R. 10, a bill to encourage the establishment of voluntary pension plans by self-employed individuals. I have long been in favor of the principle of this legislation, but on several occasions during the course of this 10-year period I found it necessary to differ with the proponents as to the method of achieving their goal. Today I am pleased to say that I wholeheartedly endorse H.R. 10 as reported by the Senate Finance Committee. The features which I found objectionable in the past have either been eliminated or changed to the point where I can, in all good conscience, embrace this legislation.

Practically everyone who is acquainted with this subject will agree that the principle of this legislation as now proposed is sound. Certainly the Members of the House recognized this in the 85th and 86th Congresses and again in this session when they passed H.R. 10 by a practically unanimous vote. Certainly the members of the Senate Finance Committee in the 86th Congress recognized this when, after extensive hearings, they approved H.R. 10 by a 12 to 5 vote. On August 25 of this year, this committee ordered H.R. 10 favorably reported 14 to 3.

It was apparent to me, after reading the minority views in the Senate Finance Committee report, that a number of misconceptions still exist in the minds of two of my distinguished colleagues. Their proposals were heard and voted down by the committee in the 86th Congress and again this year. I am confident that the proponents of this legislation will, on the floor of this Congress, meet these arguments again and in such a way as to gain the overwhelming support of this body. Rather than criticize, I wish to commend the spokesmen for the various national self-employed groups because, to the best of my knowledge, at no time have they said, "If you won't give us these benefits, then we wish to have them taken away from the corporate employees."

This is a good bill and for a number of reasons, one of which is the fact that it encourages people to help themselves. It encourages initiative, self-reliance, and the other quantities which helped to make this country great, but qualities, which I regret to say, are disappearing rapidly from the American scene. This Congress has an opportunity to resurrect these attributes which are so desperately needed by our country at this time by enacting H.R. 10 into law.

This remedial legislation is designed to correct an inequity in our tax structure which prevents this Nation's 10 million small business, farm, and professional people from receiving treatment comparable to that which is accorded corporate employees.

The impetus for the steady growth in corporate coverage was supplied in 1942 by the 77th Congress when it wisely enacted legislation which encouraged corporations to promote the economic well-being and future security of their employees. One has only to look at the increase which has occurred since 1940 to appreciate the soundness of this legislation. In that year 4.1 million were covered; in 1950, 9.8 million; and in 1960 the figure rose to 20 million. Approximately 1 million people are being added each year to private pension plans.

When we add to the 1960 total the approximately 8 million covered by State and local government plans, civil service, armed services, railroad retirement systems, etc., the total number of Americans covered by pension plans is approximately 30 million people.

H.R. 10 does not, as its few opponents would have you believe; broaden a tax loophole, and open a Pandora's box, but rather extends what has been proven over the past 19 years to be sound legislation to the point where it includes a dedicated, courageous group of Americans, the self-employed.

To accomplish this, self-employed persons are treated for retirement plan purposes as the employers of themselves. This was the fundamental concept of the House bill and it is retained in the Senate Finance Committee's substitute. As employers, self-employed individuals are permitted, like other employers, to deduct contributions (within specified limits) made to pension or profit-sharing plans for the benefit of themselves and such other employees as may be covered under the plan. Under the committee bill, a self-employed person would be permitted to contribute to a retirement plan 10 percent of his earned income or $2,500. whichever is the lesser. He would be permitted to deduct 100 percent of the first $1,000 contributed and 50 percent of the remaining $1,500, which may be contributed. The maximum deductible amount would be $1,750.

As employees, as with other employees, they are not taxed on such contributions made for their benefit, or the income thereon, until they receive the funds upon retirement or otherwise.

The committee changes have drastically reduced the size of the revenue deferral, in fact to a point where this can no longer be used as a major argument against this measure. Oh, I am not deluding myself, because there will be some who will cry economy, who will use the international situation as an excuse for opposing this bill; but these few, time and time again have, and will continue, to support domestic programs with high price tags and questionable dollar value.

The estimates for H.R. 10 range from less than $100 million to $200 million. In view of the actual experience in other countries, Great Britain, Canada, and New Zealand; and the fact that the Treasury Department generally overestimates, I am inclined to accept the lower figure.

Regardless of the exact amount, I wish to remind you that the potential revenue deferral is already made possible in the present tax law since the establishment of tax-deferred pension plans is available to any self-employed person who incorporates his business or occupation.

If we fail to act in this Congress, we will, I am certain, force a great many of this Nation's self-employed to incorporate and in most cases solely for the purpose of gaining tax treatment relative to their retirement savings similar to that which is offered their corporate brethren. Passage of H.R. 10 will encourage these fine, hard-working Americans to retain their self-employed status, defeat will be a major blow to them and an invitation to incorporate for tax advantage because of their national desire to protect themselves in their later years. Now I don't believe we can afford the loss of too many more self-employed without jeopardizing the position of this country both on the domestic and international fronts.

H.R. 10 is a good bill, it is a just bill. I urge my colleagues on both sides of the aisle to join with me in working for the early enactment of H.R. 10 in the 2d session of the 87th Congress.

Mr. DIRKSEN. I think there are only two other things I care to say.

First, since we have pending a tax bill, the amendment obviously is completely germane to the subject matter of the bill under consideration. The so-called

H.R. 10 is a tax measure. Therefore it is rightly before the Senate at the present time.

I should like to read into the record a statement made by the President of the United States when he was a Member of the Senate. This statement was made in January of 1960, and came in an answer to an inquiry as to his position on what was then known as the Simpson-Keogh bill, named after Representative Simpson of Pennsylvania and Representative KEOGH of New York. The statement appears in volume 107, April 20, 1961, of the CONGRESSIONAL RECORD. At that time the President said:

I am myself disposed to support the type of provisions which are contained in the Simpson-Keogh bill. I personally feel that there has been ample testimony from many sources over a long period of time in both Houses and that it is time to take floor action on this legislation. * * * I hope that it will be acted upon favorably during this Congress.

I now read into the record one other statement of the President, which was made prior to November 1960. The distinguished President wired the following message to the American Thrift Assembly:

Thank you for providing me with an opportunity to comment upon the proposal to amend the Revenue Act to permit small businessmen, farmers and self-employed people to make provisions for their retirement with the same tax advantages now possessed by corporate employees. As you know, this proposal has been before the Congress for 9 years. During that time extensive hearings have been held. Committee reports have been filed and the original proposal has undergone considerable modification to meet objections against it. These objections now seem to have been overcome, for the Treasury reports there will be little loss of tax revenues. The objectives of encouraging thrift and independence in retirement have my wholehearted support. I am particularly pleased that it is planned to eliminate the discrimination against employees and permit them to participate in pension plans.

Mr. President, I know of nothing else that I need add to the cause, for in the past 11 years the subject has insinuated itself into the mind of every Senator. Senators know what it is about. I am now prepared to yield the floor. I think my distinguished friend from Florida [Mr. SMATHERS], who deserves all the credit for the work done on the bill, and who was the coauthor along with Representative KEOGH, may now wish to address himself to the Senate.

Mr. SMATHERS. Mr. President, will the Senator yield me 2 minutes?

Mr. KERR. Mr. President, I yield 5 minutes to the Senator from Florida.

Mr. SMATHERS. Mr. President, I am grateful to the able Senator from Illinois [Mr. DIRKSEN], the minority leader, for his very kind references to me. I know of his great interest in the proposal. I, like him and many others, feel that it is a most meritorious, worthwhile, and long overdue piece of proposed legislation.

I understand that the majority leader, the distinguished Senator from Montana [Mr. MANSFIELD], will later today make a motion to table the amendment. At that time I shall have several questions to put to the majority leader and I will elaborate a bit further on my feelings with respect to H.R. 10. I am grateful to the very able minority leader and congratulate him for having made the move. I had a similar amendment prepared which I also intended to propose to the pending bill. Had he not brought his amendment up, I would have brought mine up. His offer of the amendment at the present time brings the subject to a head and, as a result of his having offered the amendment, I now feel completely confident that there will be an opportunity to discuss rather fully the merits of H.R. 10 as reported by the Senate Finance Committee. But most important of all, I am satisfied that we shall now be able to get a vote on the measure. I commend the Senator, and I thank him. I will have more to say a little later.

Mr. PASTORE. Mr. President, will the Senator give us a brief explanation of what the amendment would do?

Mr. SMATHERS. A brief explanation of the amendment is as follows: It would provide for self-employed people, such as doctors, lawyers, accountants, real estate people, barbers, farmers, and small businessmen, the opportunity to set aside certain sums of money not to exceed $2,500, or 10 percent of their income, whichever is the lesser, in an approved retirement program to take care of themselves in their retirement years. Benefits under such program may not begin before age 59½, except in case of disability or death, nor later than age 70½.

They are not permitted to deduct the entire amount contributed under the plan. The first $1,000 contributed and 50 percent of the contribution in excess of this amount is deductible. This means that an owner-employee who makes the maximum annual contribution of $2,500 may only deduct $1,750 of that amount.

We say this proposal is long overdue, because since 1941, under laws passed by Congress, we have authorized the setting up of retirement and pension programs for large corporations. Today there are perhaps 60 million people who are covered by these pension programs which are much more generous than the self-employed provisions which we are proposing. Many of the corporations set up programs theoretically for all of their employees, and all of that money contributed by the corporation is deductible. The self-employed under the proposed amendment have only a tax deferral. They will be taxed when they derive their benefits under the approved plan.

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

Mr. SMATHERS. I yield.

Mr. PASTORE. Must the individual retire?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KERR. I yield 3 additional minutes to the Senator from Florida.

Mr. SMATHERS. Not necessarily. If he is to avail himself of the retirement program he must begin to draw benefits sometime between the ages of 59½ and 70½.

Mr. PASTORE. He must retire, under the law?

Mr. SMATHERS. Ordinarily he will retire. The proposal does not permit him to defer receipt of this money indefinitely. No retirement test is provided by the bill because of the difficulty of determining when a self-employed person has retired. In any event, the retirement program does go into effect at age 70½. It is not merely left to his estate as a tax-free amount of money to be passed on to his heirs.

Mr. PASTORE. What if he does not retire?

Mr. SMATHERS. Then he just continues to work and the program continues and just stays in effect. He is eventually taxed on what he receives under the plan at ordinary income tax rates.

Mr. PASTORE. As it would have been in the beginning?

Mr. SMATHERS. As it would be at the moment. That is the big advantage, I might say. There is no question that there is an advantage in a person doing it, because usually he is in a lower income bracket when he is 65 or 67 and retires than he is when he is earning the money. There is no question that that gives him some advantage. However, we say there are already 60 million people who are enjoying the privilege today. The self-employed have not thus far been able to take advantage of the corporate pension programs. We are attempting to bring equity to these 7½ million people who have not been able to set up a retirement program for themselves.

Mr. PASTORE. I should like to clear up one point. The Senator said that a person must retire in order to receive this money. Then the Senator has said that if the person continues to work he can still get the money.

Mr. SMATHERS. He is not required to retire. What I meant was that he cannot have it both ways. We say if he continues to work he must begin to draw benefits before he is age 70½.

Mr. PASTORE. At the prevailing rate of interest?

Mr. SMATHERS. Yes.

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

Mr. SMATHERS. I yield.

Mr. CURTIS. I believe the distinguished Senator from Rhode Island will be interested in this fact. Under the amendment the self-employed person must set up a program for his employees. He cannot merely qualify himself. The self-employed person—the operator of an unincorporated business or a professional man—must substantially meet the same requirements that the corporate pension plan requires. There they must cover every employee, and the officers cannot be covered alone.

The PRESIDING OFFICER. The time of the Senator has again expired.

Mr. KERR. I yield 3 additional minutes to the Senator from Florida.

Mr. PASTORE. Will the Senator from Nebraska be a little more specific? If a doctor has three nurses, he cannot set up a plan for himself without setting up the plan for his three nurses as well. Is that correct?

Mr. CURTIS. That is correct. Just as our great corporations cannot set up

retirement plans to cover the officers only. There are provisions, however, that they can classify employees and cover their regular employees as contrasted with the casual employees.

Mr. PASTORE. How does that work? Let us assume that a doctor has three nurses. Do we say he can deduct up to a thousand dollars and then take one-half of the remaining $1,500? What does he do about the other employees, in other words?

Mr. CURTIS. He has to pay. First of all, he has to have a plan that is approved.

Mr. PASTORE. Approved by whom?

Mr. SMATHERS. I appreciate the Senator from Nebraska making that clear. Each one of these plans must be approved by the Treasury of the United States.

Mr. PASTORE. In other words, if a lawyer has a stenographer or secretary, he must provide for her as well. Is that correct?

Mr. SMATHERS. He must. He must provide for her on what we call a nondiscriminatory basis. He cannot set up a generous proposal for himself and a less generous proposal for his employees. There must be the same ratio.

Mr. PASTORE. Where does the money come from to set up the fund for the benefits that are made available?

Mr. SMATHERS. From the employer.

Mr. PASTORE. From his own personal income?

Mr. CURTIS. From his business income.

Mr. SMATHERS. He is permitted to deduct it.

Mr. CURTIS. The employer pays it.

Mr. SMATHERS. When the employer puts the money into the fund for his employees from his business, he is permitted to deduct the amount of money to take care of his employees. There are large corporations which are permitted to deduct the amount of money which they put into a fund to take care of all their employees. The same thing would be true in this case.

Mr. PASTORE. It would be a business expense?

Mr. SMATHERS. It would be a business expense. Mr. President, I will have more to say about this matter later in the coming days—and I hope there will not be too many of them—and this measure will be rather well explored.

I now yield the floor.

Mr. DIRKSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I thank the distinguished Senator from Illinois. If I may have the attention of the proponents of the amendment, I wish to say that I have long favored the principle involved in it. Many years ago, as a member of the Ways and Means Committee, I made the motion that we hold what were the first hearings on the principle involved here.

A great inequity exists throughout the country. The corporate entities can set up pension plans for their officers and for their employees. The money which goes into these pension plans goes into them before taxes. The income that the pension fund earns is not taxed. An individual who is in some kind of business—be he a grocer, or doctor, or dentist, or farmer, or lawyer—pays taxes and must save for his old age after taxes. Then when he puts his savings aside, if it earns income, he is taxed again. So we have one group that sets aside money before taxes, and the tax is paid when the benefits are paid later. Another group has two handicaps. We cannot go on like that. The corporate plans are increasing rapidly. No one is suggesting that they be abolished or that the tax benefits that may be applicable to them should be repealed. The answer is that we must equalize it and extend it to others. The requirement of putting 10 percent of income aside—or up to $2,500, or $1,750, as now—is quite rigid.

There is the trustee plan, for example, which projects itself for some distance into the future; or an insurance contract must be entered into; and all employees must be covered in both instances. In a trustee plan it is permissible to use Government bonds.

But if we adopt the Dirksen amendment, there will still be millions of people throughout the country who will not be covered by a corporate plan and will never be able to set up a plan under H.R. 10. Legally, they are permitted to do so, but practically they cannot. Some of them may be 57 or 58 years old now. Some of them have a business which is uncertain, and they cannot enter into an insurance contract to provide themselves and their employees with any degree of certainty. Their business is so small that they cannot go to the expense of having a plan drafted and submitted to the Internal Revenue Service and approved and carried out. Yet those people, if they save anything for their old age, will have to do so after taxes, and their savings will be taxed.

My amendment to the Dirksen amendment would not in any sense take away any of the rights and privileges of the self-employed that the amendment would give, but it would take care of the other group which would still be outside these plans, should the amendment be adopted.

I refer to the small employer, who cannot set up a plan. I refer to the employee who has worked all his life and will continue to work all his life for an establishment for which there will not be a pension plan.

So we say that any individual, in any calendar year in which he is not covered by a pension plan, either a corporate plan or under H.R. 10 or a Government plan——

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. CURTIS. I yield myself 5 additional minutes.

We say that in any such year he may buy a special issue of Government bonds up to a total limit of $300. In other words, he may save $25 a month, and on that saving he will not be taxed. Then in his old age, when he cashes the bond, just as in the case of the other plans, he will pay a tax on the full amount. The plan would be very simple to operate.

Suppose there is a bond for the base amount of $100. The person could go to the bank or post office where the bonds were sold. He would give his age. The teller or clerk could look at a table and determine that the bond could be bought for x dollars. Just as in the case of an E-bond, if the purchaser did not cash the bond at age 65, it would draw interest beyond that time.

This proposal would enable people having modest incomes, people who are some of the hardest working and most worthy in our country, to have an opportunity to save for their old age before taxes.

I say to the proponents of H.R. 10, who are concerned with whether or not such a bill might be vetoed, if this amendment be adopted—and perhaps it will not have such universal application—the chances of the bill being vetoed will be very much less.

Mr. HRUSKA. Mr. President, will the Senator from Nebraska yield?

Mr. CURTIS. I yield.

Mr. HRUSKA. Through his fine presentation and constructive contribution, my colleague has again demonstrated why he is considered to be one of the valuable members of the Committee on Finance.

I should like to ask the Senator a question concerning his proposal: Assume a person who invests in such a bond does not wait until he is 64½ years of age, but rather sells the bond prior to that time. What would happen in that event?

Mr. CURTIS. The bonds would be nontransferable. The only occasion on which the holder of such a bond could cash it—and it would be in a lesser amount—and have it nontaxable, would be if he were found to be totally disabled under the same section under which he must prove disability for social security. Then he could cash the bond.

Mr. HRUSKA. Otherwise, the bond would not be cashable until the holder reached the age of 64½?

Mr. CURTIS. It would not be transferable. Let me state what it will mean. It will mean the sale of bonds to individuals instead of to banks and finance companies. The program would be anti-inflationary. Many of these bonds would be for long terms. One of the Treasury's problems arises from the sale of bonds for a term of less than 5 years. The problem of financing our enormous debt is made difficult when the the sale of bonds is on such a short turnover basis. What is needed is long-term financing. This proposal will contribute to long-term financing. The income would not escape taxation; taxation would merely be deferred until the holder of the bond used the income.

Mr. HRUSKA. I thank my colleague.

Mr. CURTIS. I thank the Senator from Nebraska.

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

Mr. CURTIS. I yield.

Mr. PASTORE. I am very much interested in the Senator's proposal. Was his amendment advanced in the committee?

Mr. CURTIS. It was, and it failed, as I recall, by one vote.

Mr. PASTORE. Did the Treasury Department make any comment on the amendment?

Mr. CURTIS. Those hearings were not held this year. I am reaching back in memory. It is my understanding that the Treasury was opposed to all such legislation—including both H.R. 10 and my proposal. I hope I am not doing the Treasury an injustice, but that is my recollection.

Mr. PASTORE. Did I correctly understand the Senator to say that when one of these bonds was purchased, it would not be redeemable until its maturity?

Mr. CURTIS. That is correct; except that if the holder became disabled before that time, he could cash it.

Mr. PASTORE. What if he should die in the meantime?

Mr. CURTIS. The bond would become a part of the estate.

Mr. PASTORE. It would become a part of the estate?

Mr. CURTIS. Yes. An individual who came under the $300 limit and could buy nothing but Government bonds would not be required to cover employees or other persons. I dare say that the more successful business and professional men who are advocating H.R. 10 would prefer trustee plans under which they could get growth investment.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. DIRKSEN. I yield 5 additional minutes to the Senator from Nebraska.

Mr. PASTORE. Those who would be eligible under the Senator's plan would be only the self-employed who did not employ other persons?

Mr. CURTIS. Employees could avail themselves of this plan. A person who worked for a small business which did not have a pension plan, and perhaps could never come under such a plan, could use any of his earned income to buy Government bonds for his old age and pay taxes when he cashed them.

Mr. PASTORE. Suppose later such a person joined a pension plan.

Mr. CURTIS. His limit would be fixed yearly. In any year in which he was not covered by a pension plan, he could buy the bonds.

Mr. PASTORE. So all the safeguards are provided?

Mr. CURTIS. I believe so.

Mr. President, I yield back the remainder of my time.

Mr. KERR. Mr. President, I yield 5 minutes to the junior Senator from Tennessee.

Mr. GORE. Mr. President, H.R. 10 goes in the opposite direction from tax reform. While apparently throughout the country there is a feeling that there is a dire need of thoroughgoing tax reform, H.R. 10 is seriously proposed in the opposite direction. Instead of closing loopholes of tax favoritism, the enactment of H.R. 10 would create one of the biggest and one of the worst, another big and another bad, loophole of tax favoritism.

For the moment, I shall not discuss the details of the bill. Suffice it to say that this special benefit would accrue largely to those who least need tax relief. Let me cite the estimate of the Treasury Department, made during the administration of President Eisenhower, as to the use which would be made of the provisions of H.R. 10. In estimating revenue losses under terms of the bill, the Treasury assumed that only 15 percent of the people in the low income brackets who would be eligible to receive this benefit would be in financial circumstances to take advantage of it, but two-thirds of those in the upper income brackets who would be eligible for this special benefit or favor would not only be able to take advantage of it, but would do so.

I should like to observe, briefly, that every statement made today in the Senate in support of H.R. 10 has attempted to justify it on the basis of abuses of corporate pension provisions of our tax law. Thus, we see a continuation of the trend to justify a proposed new tax gimmick on the basis of abuse of provisions already in the law. But what is the duty of representatives of the people, with respect to loopholes of tax favoritism? Is it to remove the offending provisions from the law; or is it to leave them in the law, and to enact other loopholes, using the existing ones as an excuse? I think the proper course is to enact tax reform which will be fair and equitable, and to strike down the existing loopholes and favoritism gimmicks, instead of creating more.

When H.R. 10 is before the Senate, I shall attempt to have it amended. I shall have two objectives. The first will be to make the benefits of the bill available to all taxpayers. Mr. President, what is the justice of providing that a well-to-do doctor can receive tax deduction for the purchase of an insurance policy for his own benefit, whereas a newspaper reporter or a bank clerk cannot have that privilege? I have been imbued with the notion that Congress represents all the people. I shall undertake so to do with respect to H.R. 10.

Second, I shall undertake, by means of amendments—since the Senate is determined to enter upon consideration of pension plans——

The PRESIDING OFFICER. The time yielded to the Senator from Tennessee has expired.

Mr. GORE. May I have 2 additional minutes?

Mr. MANSFIELD. Mr. President, I yield 2 additional minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 more minutes.

Mr. GORE. I thank the Senator from Montana.

Mr. President, by means of amendments, I shall undertake to correct some of the more flagrant abuses of the corporate pension plans, particularly the owner-manager type corporation, to which the junior Senator from Florida referred, and by which he sought to justify H.R. 10.

Mr. President, I believe in tax reform. But I believe that if we continue to load down this bill with one example of favoritism after another, tax reform will be aborted.

I have given assurances to the distinguished majority leader that if this bill is brought up by motion as a separate bill, I shall undertake to have it defeated, and shall do so with all the strength and power of persausion that I may have; and if it is not defeated, I shall undertake to amend it in the ways I have suggested. But I have also assured him that I would not engage in dilatory tactics with respect to H.R. 10 as a separate bill, any more than I have been with respect to the pending bill.

The PRESIDING OFFICER. The additional time yielded to the Senator from Tennessee has expired.

Mr. GORE. May I have 1 more minute?

Mr. MANSFIELD. I yield 1 more minute to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 1 more minute.

Mr. GORE. Mr. President, I shall neither organize nor participate in a dilatory movement with respect to H.R. 10, to prevent it from coming to a vote.

Mr. KERR. Mr. President, I ask for 1 minute.

Mr. MANSFIELD. Mr. President, I yield 1 minute to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 1 minute.

Mr. KERR. Mr. President, yesterday, as I stated, I submitted a series of amendments on page 140, line 16. One of them was to make the effective date September 4, 1962. I find that as set forth on page 2 of the amendments, in line 8, instead of that date, there has inadvertently been set forth there the date December 31, 1962.

I ask unanimous consent that the date December 31, 1962, be stricken, and that there be inserted in lieu thereof the date of the submission of the amendments, which was September 4, 1962.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEATING. Mr. President——

Mr. DIRKSEN. Mr. President, I yield 5 minutes to the Senator from New York [Mr. KEATING].

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. KEATING. Mr. President, I sincerely hope that the amendment offered by the distinguished minority leader will not be tabled.

When I was in the other body, I introduced a bill which went considerably further than this bill does, in giving people an opportunity to lay funds aside for their future years and to have the amounts laid aside declared tax deductible. My recollection is that the amount permitted to be so treated in my bill was less than $2,500, but the bill extended to a much wider group of taxpayers. I therefore think there is considerable merit in the argument earlier presented by the distinguished Senator from Tennessee to the effect that more people should be included in coverage of H.R. 10 but, we shall not have an opportunity

to deal with this proposition unless we defeat the proposed motion to lay on the table. I hope the Senator from Tennessee will vote accordingly.

This amendment by the distinguished minority leader gives self-employed persons an opportunity to plan their retirement on a basis similar to that very generally and widely afforded corporate employees. Adoption of the amendment would do away with an unfortunate discrimination in existing law, under which both employees and persons defined as owner-managers are permitted to participate in tax-exempt retirement plans; yet self-employed individuals have no opportunity to do so.

When we speak of the self-employed, we are not just referring to a small minority, but to a group estimated at between 7 million and 9 million persons engaged in a wide group of activities. Included in the group would be lawyers, doctors, and journalists earning fees of as much as $40,000 or $50,000 or $100,000. However, these are by no means the only people covered.

It must be remembered that there would also be included gasoline station attendants and persons running small grocery stores—persons with incomes of perhaps $2,000 or $3,000, and—and I speak from personal experience—in many years running their businesses at a loss. Also included would be employees of the self-employed persons—which means that under this bill, pension plans would become available to an estimated 9 million or 10 million Americans who are not self-employed and do not presently have pension rights. This is a very significant change in the original version of H.R. 10.

Every year this idea, which I believe is eminently sound and just, has gained increased momentum. In the 82d and 83d Congresses, the bill was submitted, but it never got out of committee. In the 84th Congress it was reported to the floor of the House, but no action was taken on it. Finally, in the 85th Congress, a bill similar to the amendment now pending, was passed by the House. In each of the two succeeding Congresses legislation was passed in the other body, but in no instance has it received Senate consideration.

The present H.R. 10, as it is designated, was passed on June 3, 1961. The Senate Finance Committee reported the bill in September of last year. Since that time it has remained on the calendar, collecting new supporters all the time, but not receiving any attention in the Senate.

The principal argument that has been used against this legislation is the loss of revenue involved. Of course, that is a matter which we must always consider most seriously. Every time the bill has come up, the Executive has indicated that the revenue that would be lost would be some enormous sum of money.

In the first place, I have serious doubt about the size of the figures that are given. Of course, it will result in some revenue loss——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KEATING. I yield myself 2 more minutes.

But offset against this loss is the inherent fairness of the plan, plus the fact that it will be a significant spur to our economy, because many of the persons who will benefit under H.R. 10 will feel that, if they are providing for their later years, they can more liberally spend now and enjoy life as they go along. It will thereby be an impetus to our economy, which certainly needs it.

Mr. President, the tabling of H.R. 10 will be the death knell not only of these hopes and aspirations, but any effort which may be made to improve H.R. 10 as worded. I sincerely hope that the effort to table this amendment, will be defeated.

Mr. DIRKSEN. Mr. President, I yield 3 minutes to the Senator from Nebraska [Mr. HRUSKA].

Mr. HRUSKA. Mr. President, I rise in support of the amendment of the Senator from Illinois and join in the thoughts and conclusions just expressed by our colleague the Senator from New York.

The amendment, after all, has for its objective the correction of an inequity which has existed ever since the present provisions for pension plans were devised for officers and employees of corporations. It is a substantial inequity because it affects somewhere between 7 and 10 million self-employed individuals.

The Dirksen amendment would place these small businessmen, farmers, and professional people on a parity with officers and employees of corporations.

By treating self-employed individuals as their own employers for the purposes of establishing voluntary pension plans, this amendment would give these individuals substantially the same opportunities they would otherwise have were they carrying on their business or profession as a corporation. Limited amounts which are set aside for retirement plans for the benefit of themselves would be made deductible. As in the case of other employees, self-employed persons would not be taxed on these contributions or the income which accrues thereon until such time as these funds are distributed to them during their retirement.

Thus, this amendment looks beyond the mere form in which an individual may be doing business. It brings us to the substance of this whole question, that people should be encouraged to help themselves regardless of the particular form or style of business organization under which they may be operating.

This concept has been advanced for several years. Similar legislation for providing equal treatment for the self-employed was passed by the House during the 85th and 86th Congresses and again during the first session of this Congress. The Senate Finance Committee held extended hearings on H.R. 10 during the 86th Congress and approved the bill. The committee reaffirmed its approval of the bill almost a year ago, and it has been pending on the Senate Calendar since that time.

Therefore, the Dirksen amendment which embodies the provisions of H.R. 10 is a seasoned piece of legislation. It has been developed and refined to its present form after a great deal of consideration, debate, and study.

Under the amendment, a self-employed person would be permitted to contribute 10 percent of his earned income or $2,500, whichever is smaller, to a qualified retirement plan. Like other employers, he could claim a deduction for this contribution in the year that it is made. However, this deduction would be limited to 100 percent of the first $1,000 and 50 percent of the remaining contribution. Hence, the maximum deduction in any year would be $1,750.

Like other employees, the self-employed person would not be taxed on these contributions until such time as the benefits are payed out during his retirement.

The amendment also insures equality of treatment as between the self-employed individual and his own employees. In order to qualify, a pension plan must cover all full-time employees with 3 years of service. Further, contributions on behalf of these employees must vest at the time they are made so that they are nonforfeitable.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIRKSEN. Mr. President, I yield 2 more minutes to the Senator from Nebraska.

Mr. HRUSKA. An objection frequently raised to H.R. 10 is that its enactment would result in a substantial loss of tax revenue. The loss under the House passed version was estimated to be somewhere between $325 and $358 million a year. The Treasury Department cited this as one of its principal objections to the measure.

However, the amendments recommended by the Senate Finance Committee would reduce this potential loss in revenue to an estimated $180 million for a full year's operation. Therefore the objection voiced is largely overcome. And in view of the gross inequities overcome by the present bill, which have already been discussed, this cannot be the sole consideration.

Mr. President, I hope that our many self-employed citizens will at last be extended the relief provided by H.R. 10 as it now stands on the Senate Calendar. This bill should have been called up for full debate and action by the Senate a long time ago. Unfortunately, it was not. We now have the opportunity to act upon it.

It is my hope that the motion to table will be defeated and the amendment will be approved.

I yield back the remainder of my time.

Mr. DIRKSEN. Mr. President, I thought it might be well for the RECORD to read just a few excerpts from the report of the Senate Finance Committee on H.R. 10. I read from page 8 of the report, in which are assigned the reasons for the bill:

> The primary reason for the House bill (as amended by your committee) is to give self-employed persons access to retirement plans on a reasonably similar basis to that accorded corporate stockholder employees. It thus tends to correct a discrimination in present

law under which self-employed individuals—sole proprietors and partners—are prevented from participating in retirement plans established for the benefit of their employees although owner-managers of corporations may do so.

The second reason assigned for the bill is, as follows:

The bill allows contributions to retirement plans to be a deduction for income tax purposes at the time these contributions are made, but requires that retirement benefits when received be subject to taxation.

The third reason assigned:

Your committee, like the Committee on Ways and Means of the House, is of the opinion that extending the coverage of individuals under voluntary retirement plans is in the public interest. The bill will make self-employment somewhat more attractive than at present compared to employment with a corporation, and will thus help to keep small business strong and independent professional practice thriving.

As a part of my remarks, Mr. President, I may say that there have been statements to the effect that this is a lawyers' bill and a doctors' bill. I heard a statement on the floor a moment ago with respect to teachers, reporters, and others. I know of no teachers who are under no private pension plan. I presume that statement would apply to reporters, and other newspaper employees as well, who would be under corporate pension plans.

In addition, Mr. President, there have been many endorsements of H.R. 10. I shall ask to have some of the endorsements printed, but I recite at this point that the list I am submitting includes the American Association of Small Business, the American Farm Bureau Federation, the American Authors League of America, Inc., the Contracting Plasterers' and Lathers' International Association, the National Association of Plumbing Contractors, the National Association of Real Estate Boards, the National Farmers Union, the National Federation of Independent Business, the National Milk Producers Federation, the Painting and Decorating Contractors of America, and the National Wholesale Furniture Salesmen's Association.

I am sure others could be added, because I noted in the RECORD that Representative KEOGH, of New York, included a very large number of associations and groups which wholeheartily endorse H.R. 10.

I ask unanimous consent that these endorsements may be printed in the RECORD.

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

I urgently request you again to do your utmost to see that H.R. 10, the Self-Employed Individuals' Retirement Act, is approved by your committee promptly, so that it may be acted upon by the entire Senate.

The inequality of opportunity experienced by the self-employed, as compared with the pension provisions furnished the employee by the many segments of industry, has long created a hardship for the self-employed.—American Association of Small Business.

The American Farm Bureau Federation has supported the general principles of this type of legislation for several years, within limits adequate to prevent abuse.—Statement of the American Farm Bureau Federation.

Like many other organizations speaking for self-employed craftsmen, businessmen and professional people, the Authors League has previously had the opportunity—I might add ruefully and regretfully—several opportunities—to express its support for H.R. 10 and the retirement program for self-employed taxpayers, which it would make possible.—American Authors League of America, Inc.

The Contracting Plasterers' & Lathers' International Association is an organization of lathing and plastering contractors with members in the United States and Canada, but with the great bulk of its membership in the United States.

The members of this association are all small businessmen. A good number of the members are in unincorporated firms, and have no means of setting up a retirement fund of their own through which they may prepare for the day when they are no longer able to carry on their business.

H.R. 10 would meet the need of the good majority of the members of this association, and indeed, would meet the needs of a majority of the small businessmen in America today.—Contracting Plasterers' & Lathers' International Association.

The National Association of Plumbing Contractors is composed of approximately 10,000 members who do about 80 percent of the total volume of plumbing contracting in the United States. * * * The vast majority of these contractors are small shops and as such qualify as small businessmen. Our association has 46 State associations and approximately 390 local affiliated groups.

The National Association of Plumbing Contractors feel that a measure like H.R. 10 would help keep many people from incorporating to reduce their taxes. There are a number of plumbing and heating contractors who could have saved considerable money during the past few years on their income tax by incorporating their business.—National Association of Plumbing Contractors.

I am testifying on behalf of the more than 69,000 members of the National Association of Real Estate Boards, the large majority of whom would be directly affected by enactment of this bill. It is consistent with the professional nature of their work that they do business in a noncorporate form, and most of them, therefore, are self-employed. Because of this, the present tax inequity which exists relative to pension plans for the self-employed affects them adversely just as it does doctors, lawyers, and others. There is, therefore, overwhelming support in our association for passage of H.R. 10.—National Association of Real Estate Boards by Realtors' Washington Committee.

Delegates to the convention of National Farmers Union, meeting in Washington, D.C., in March of this year, adopted a resolution in favor of a retirement program for self-employed persons. Their approval was expressed as follows:

"Deductions for farmers and other self-employed to establish retirement funds should be permitted on the same basis currently afforded to corporations to provide such benefits for their employees."

I respectfully request your support of H.R. 10 * * * when it comes before the Senate Finance Committee for action.—National Farmers Union.

Speaking for the more than 170,000 individual independent business and professional people from all 50 States of this country, individuals who are active, current members of this federation, we urge that you act favorably on bill H.R. 10, a bill that rights an injustice in our laws which permit corporations to take tax deductions for payments into private retirement funds for their officers and employees, yet prohibits self-employed business and professional people from enjoying the same opportunities.

Please understand, we are not telling you what we or any small self-appointed group think our members want. We are only repeating to you what our members themselves have told their Congressmen and told us in repeated soundings in federation nationwide membership mandate polls in which each of our members has had one and only one vote and in the course of which members have sent their voted, signed and thereby authenticated, opinions to their Congressmen.—National Federation of Independent Business.

We shall greatly appreciate it if you will include in the hearing record of H.R. 10 this statement supporting the bill.

The National Milk Producers Federation is a national farm organization. It represents approximately half a million dairy farmers and some 800 dairy cooperative associations.

The lack of adequate provisions for the retirement income of dairy farmers is a matter about which we are deeply concerned.

We have given a great deal of thought to what might be done for dairy farmers in this field. The more we work on it, the more convinced we are that the first step should be legislation such as H.R. 10.

We hope you will bear in mind, in your deliberations on this bill, the need of dairy farmers for a base on which they can build more adequately for their own retirement.—National Milk Producers Federation.

The Painting & Decorating Contractors of America is the spokesman for some 8,500 active painting contractors from every section of this great Nation. I do not believe that a better example of the American small businessman can be found than today's painting and decorating contractor. The large majority of these men employ less than 10 workmen. They willingly contribute to welfare and pension funds for their workmen but are denied the right to set aside any amount for their own retirement on any tax deferred basis. As a national association we strongly feel that this is working a hardship on these self-employed persons who help make up the backbone of this Nation. We strongly urge that the Senate Finance Committee favorably report H.R. 10 for consideration of the U.S. Senate.—Painting & Decorating Contractors of America.

I hope that the members of this committee will consider the effect on the morale of the self-employed who comprise a very important part of this country's citizenry. It is our feeling that passage of H.R. 10 will show an act of faith on the part of Members of the Congress in the well-being of their constituents who are self-employed and an integral part of the backbone of America.—National Wholesale Furniture Salesmen's Association.

Mr. MANSFIELD. Mr. President, it is my understanding that the proponents of the amendments have completed their presentation on their time. I do not anticipate using the 11 minutes remaining on this side, but I wish to state that one of the reasons why I shall make the motion to table the pending amendments is because of a fear on my part that if the amendments are agreed to it is possible—and I say this only in a personal sense—that the tax bill may well be vetoed. I make that statement because of the fact that in my opinion there are enough opponents of H.R. 10 and of the tax bill, perhaps, to be able to sustain a Presidential veto.

I do not know what the President will do if the motion to table is successful and H.R. 10 then becomes the pending business at the conclusion of consideration of the tax bill, as it will if the motion to table is successful, but I would anticipate the chances for its pas-

sage would be much better then than they are at the present time.

Mr. HARTKE rose.

Mr. MANSFIELD. I yield at this time to the Senator from Indiana [Mr. HARTKE].

Mr. HARTKE. Mr. President, as I understand the remarks made by the majority leader, one difficulty with respect to the bill is that the President has an understanding that it would cause an increase in the deficit, so far as overall revenues are concerned. Is that correct?

Mr. MANSFIELD. I am certain that is the feeling both of the present President and was of the previous President, Mr. Eisenhower.

Mr. HARTKE. Is it not true also that the withholding provision which was recommended could have been helpful in regard to the deficit, and that the difficulty would not have been presented, at least in the same scope, under the bill with the withholding provision as it is presented under the bill as it is today?

Mr. MANSFIELD. The Senator is correct. It is unfortunate that the withholding provisions were not retained in the bill. That was a good proposal. It is a fact that the law now, and the law for 20 years, has provided for payment of taxes on such income, but the withholding provision involves the question of enforcement.

Mr. HARTKE. If the motion to table is sustained, is my understanding correct that it is the intention of the majority leader to make H.R. 10 the next order of business?

Mr. MANSFIELD. That is correct. Immediately after the disposition of the pending tax revenue measure it is the intention of the Senator from Montana to lay before the Senate H.R. 10 and to make it the pending business, and to stay with it until a vote is taken one way or another.

Mr. HARTKE. That is the measure which at the present time is on the calendar?

Mr. MANSFIELD. The Senator is correct.

Mr. SMATHERS. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield to the Senator from Florida.

Mr. SMATHERS. I had intended to ask very much the same questions the Senator from Indiana has asked. As I gathered, the majority leader has said it is his impression that if H.R. 10 is attached to the pending tax bill there is some likelihood the bill will be vetoed.

Mr. MANSFIELD. Yes. I can see some people in effect laughing up their sleeves after such a statement, but I would urge caution. In my personal opinion, if the bill were vetoed there would be sufficient votes on the part of those who are opposed to H.R. 10 and those opposed to the tax bill itself to uphold a Presidential veto.

Mr. SMATHERS. I wish to say to the able majority leader that, while there was not a very specific statement, nonetheless the impression I gathered was that if H.R. 10 were attached to the tax bill there was a great likelihood the whole tax bill, including H.R. 10, would be vetoed. As I say, there was nothing specific said in that respect, but that was the definite impression I had.

Another question I had related to an assurance by the majority leader that there will be a vote on the merits of H.R. 10 prior to the Senate considering the trade bill.

Mr. MANSFIELD. Yes. Immediately following the disposition of the tax bill, it will be considered. I had notified certain Senators that at an appropriate time H.R. 10 would be considered this session. That appropriate time has been moved up considerably, due to circumstances over which I had no control.

Mr. SMATHERS. Mr. President, will the Senator yield to me so that I may make a brief statement, with the understanding that he will not lose his right to the floor?

Mr. MANSFIELD. I yield.

Mr. SMATHERS. In the light of what the majority leader has said, I wish to state that the impression I gathered, after talking to people at the White House, was the same impression gathered by the able majority leader.

It would seem to me that the wisest course to be followed by those who genuinely wish to see H.R. 10 pass would be to support the majority leader in his motion to table. This I say for the very simple reason that later, down the road, after we pass H.R. 10—and I am confident we have enough votes in the Senate to pass it as amended by the Senate Finance Committee, which would reduce the cost to the Government from $380 million a year to $180 million a year, and perhaps less than that—the question then would arise as to whether H.R. 10, standing by itself, might run into a Presidential veto.

I have heard no expression about that. Anticipating the worst, and with no great reason to do so, other than to be forewarned, it would occur to me that H.R. 10, standing by itself, could be passed over a Presidential veto.

I do not believe, however, that we could override a veto of the tax bill and H.R. 10 combined, because there are certain Senators opposed to H.R. 10 and other Senators opposed to certain features of the tax bill. There are a number of Senators who would like to see the tax bill defeated.

After all, since the bill would collect from the savings and loan associations and mutual banks $200 million, it is in a way to their interest not to have the tax bill passed.

Since the bill would tighten up on expense accounts bringing in an additional $85 million in tax revenue, many people would like to see the tax bill not passed, for that reason.

Since the bill would provide for collecting some $105 million from the sale of certain depreciable property, there are some people who would not like to see it pass for this reason.

Since the bill would provide for collecting $25 million from mutual, fire and casualty insurance companies, there are certain companies which would not like to see it pass.

Since the bill would provide for collecting $30 million from cooperatives, there are some others who would not like to see it pass.

Since there would be $90 million coming in from a tax on foreign subsidiaries, there are even others who would not like to see the measure pass.

When we note all of the people who are opposed to the tax bill, or to certain provisions in it, combined with those who are opposed to H.R. 10, it is my considered opinion we would have a very difficult time overriding a veto of a tax bill including H.R. 10. If we should pass H.R. 10, standing on its own feet, with the knowledge which Senators and Representatives in Congress have about it, considering the many expressions which have been made by Senators as to their belief in the equitableness and righteousness of it, and their willingness to support it, I am of the firm conviction that we could override a Presidential veto if one should occur. I certainly hope there will not be a Presidential veto.

I should like to say, so far as the junior Senator from Florida is concerned, I have long been interested in this proposed legislation. I think its passage is overdue. I think it is an equitable proposal. I think it is a just proposal. I think the Senate ought to pass it. I think the way to pass it is to support the motion by the majority leader to table the pending amendment.

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

Mr. MANSFIELD. I yield to the Senator from Rhode Island.

Mr. PASTORE. One of the things which has impressed the Senator from Rhode Island in the past has been the fine cooperation betwen the majority and minority floor leadership. In view of the assurance by the majority leader that he will make H.R. 10 the pending business following action on the tax bill, and the fact that he is determined to have it come to a vote, I wonder why, in his good judgment, the minority leader does not withdraw his amendments.

Mr. MANSFIELD. That is something for the minority leader to decide for himself.

Mr. PASTORE. I was looking at the minority leader when I said that.

Mr. MANSFIELD. I can well understand his point of view. As a matter of fact, I can sympathize with it.

We have the issue now before us.

Mr. DIRKSEN. Mr. President, if an egg is good, it is good whether it is served up alone or served up with a dozen other eggs.

The measure is a good egg and it is in a bill. We can take our choice as to whether the President would veto the measure or not. I leave the question to Senators on the basis of the President's statement in January 1960, which Senators will find in volume 107 of the CONGRESSIONAL RECORD. I shall read it once more into the RECORD.

Senator Kennedy, now President Kennedy, said:

> I am myself disposed to support the type of provisions which are contained in the Simpson-Keogh bill. I personally feel that there has been ample testimony from many sources over a long period of time in both Houses, and that it is time to take floor

action on this legislation. * * * I hope that it will be acted upon favorably during this Congress.

That was John Fitzgerald Kennedy speaking.

I for the life of me cannot understand why the President should veto a tax bill containing H.R. 10, in view of that statement made in January of 1960.

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

Mr. DIRKSEN. I yield.

Mr. PASTORE. The senior Senator from Rhode Island is impressed with the logic stated, and certainly supports it. But I doubt very much that that is the real reason. After all, it is important proposed legislation. The House bill has been modified by the Senate. We have not had a thorough explanation. The question has not been fully debated, and I think it is worthy of such debate.

Cursory examination on my part makes me feel that I would support the proposed legislation. But there has not been sufficient opportunity to debate it. I think it should be debated for the benefit of the country and all the taxpayers. For that reason I think the amendment should be withdrawn.

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

Mr. DIRKSEN. I yield.

Mr. HRUSKA. The Senator from Nebraska might suggest to the Senator from Rhode Island that one way to get a debate on the question is to defeat the motion to table the amendment. There will then be ample time to debate all the merits, all the history, and all the fine features embodied in the bill.

Mr. MANSFIELD. There would be more than ample time if the motion to table were defeated.

Mr. PASTORE. That is correct. The measure is not completely germane to the issue before the Senate. The Senator knows that.

Mr. DIRKSEN. Mr. President, I have only one further statement to make. I have before me the Senate committee report on H.R. 10. It is dated September 13, 1961. We are now in the month of September. Within a week the measure will have been on the Senate Calendar for 1 whole year. By that time everybody should have developed a reasonable familiarity with the provisions of the bill. But I am content now to let the Senate vote.

Mr. HARTKE. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Montana has 2 minutes remaining.

Mr. HARTKE. Mr. President, will the Senator yield 1 minute to me?

Mr. MANSFIELD. I yield.

Mr. HARTKE. I should like to ask whether the Senator from Illinois did not make a statement some time ago—about 1959—that the measure was a budget-busting measure?

Mr. DIRKSEN. Mr. President, I should like to refresh the memory of my friend. When the bill was first reported under the Eisenhower administration, the Treasury Department indicated that the cost would be $400 million or more. The Senator from Illinois picked up the cudgels for the then President of the United States on the measure and said that in its then form he was opposed to it. I remind my friend, who happens to be a member of the Senate Finance Committee, that the measure has been put in such form that even the objections of the Treasury Department have been withdrawn. Even liberals who filed minority views on the measure have indicated that it would probably cost not in excess of $185 million. I think the amount would be less. Though I am not a member of the Finance Committee, I am happy to refresh the memory of the Senator from Indiana as to the facts.

Mr. HARTKE. Mr. President, will the Senator yield 1 additional half minute?

Mr. MANSFIELD. I yield.

Mr. HARTKE. In response to that statement, if the minority leader is willing to follow the recommendations of the Treasury Department, I shall give him an opportunity again to vote on the proposed withholding of taxes on dividends and interest before the debate is over, and we shall see whether we can have consistency of cooperation with the Treasury Department, and we will see whether the Senator has had a change of heart on the subject.

Mr. DIRKSEN. I shall be delighted, and I shall tell the Senator now how I shall vote.

Mr. MANSFIELD. Mr. President, before I make the motion to table the amendment, I wish to say that when the distinguished minority leader acted as he has described under the previous administration, the Senator from Illinois was the leader of the President's party in the Senate.

While the Senator said that he would cook only one egg at this time, I hope this egg will be laid at this time.

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

Mr. MANSFIELD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Montana has 1 minute remaining.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, I think I heard the distinguished majority leader say that he would move to consider H.R. 10 immediately after the disposition of the pending business and that H.R. 10 would remain the pending business until it was disposed of. Am I correct?

Mr. MANSFIELD. The Senator is correct.

Mr. HOLLAND. I thank the Senator.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield.

Mr. WILLIAMS of Delaware. Does that statement mean that consideration of the trade bill will be postponed until after the Senate completes consideration of H.R. 10?

Mr. MANSFIELD. I do not think so.

Mr. President, I move to table the amendment of the Senator from Illinois, and ask for the yeas and nays on the question.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Montana to lay on the table the amendments of the Senator from Illinois. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Mississippi [Mr. EASTLAND], the Senator from Washington [Mr. MAGNUSON], the Senator from Alaska [Mr. GRUENING], and the Senator from Minnesota [Mr. HUMPHREY] are absent on official business.

I also announce that the Senator from Missouri [Mr. SYMINGTON], the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], and the Senator from Wyoming [Mr. HICKEY] are necessarily absent.

I further announce that, if present and voting, the Senator from Mississippi [Mr. EASTLAND] and the Senator from Nevada [Mr. BIBLE] would each vote "nay."

On this vote, the Senator from Alaska [Mr. GRUENING] is paired with the Senator from Wyoming [Mr. HICKEY]. If present and voting, the Senator from Alaska would vote "yea," and the Senator from Wyoming would vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Indiana [Mr. CAPEHART], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. MURPHY] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. MURPHY] would each vote "nay."

On this vote, the Senator from Indiana [Mr. CAPEHART] is paired with the Senator from Minnesota [Mr. HUMPHREY]. If present and voting, the Senator from Indiana would vote "nay," and the Senator from Minnesota would vote "yea."

The result was announced—yeas 45, nays 41, as follows:

[No. 241 Leg.]

YEAS—45

Bartlett	Hart	Long, Hawaii
Byrd, Va.	Hayden	Long, La.
Byrd, W. Va.	Hill	Mansfield
Carroll	Holland	McCarthy
Church	Jackson	McClellan
Clark	Johnston	McGee
Dodd	Jordan, N.C.	McNamara
Ellender	Kefauver	Metcalf
Engle	Kerr	Miller
Ervin	Lausche	Monroney
Gore	Long, Mo.	Moss

Muskie	Randolph	Sparkman
Neuberger	Russell	Talmadge
Pastore	Smathers	Williams, N.J.
Pell	Smith, Mass.	Young, Ohio

NAYS—41

Aiken	Dirksen	Prouty
Allott	Douglas	Proxmire
Beall	Fong	Robertson
Boggs	Fulbright	Saltonstall
Burdick	Hartke	Scott
Bush	Hickenlooper	Smith, Maine
Butler	Hruska	Stennis
Cannon	Javits	Thurmond
Carlson	Jordan, Idaho	Tower
Case	Keating	Wiley
Chavez	Kuchel	Williams, Del.
Cooper	Morse	Yarborough
Cotton	Mundt	Young, N. Dak.
Curtis	Pearson	

NOT VOTING—14

Anderson	Eastland	Magnuson
Bennett	Goldwater	Morton
Bible	Gruening	Murphy
Bottum	Hickey	Symington
Capehart	Humphrey	

So Mr. MANSFIELD's motion to lay on the table Mr. DIRKSEN's amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move that the Senate reconsider the vote by which the motion to lay on the table was agreed to.

Mr. KERR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIRKSEN. Mr. President, I should like to make a parliamentary inquiry—if it can be considered a parliamentary inquiry. I believe the majority leader stated immediately before the vote on the motion to table that once the Senate had completed action on the tax bill, H.R. 10 would be laid before the Senate as the pending business.

Mr. MANSFIELD. That is correct. If the Senate will agree to my doing so, it is my intention to call up H.R. 10 and to make it the pending business immediately following the disposal of the tax bill.

Mr. DIRKSEN. I thank the distinguished majority leader.

Mr. KEFAUVER. Mr. President, until the very last moment, I had intended to vote against the majority leader's motion to table. The amendment, which was the same as H.R. 10, was certainly germane to the tax bill in that it would remove a great inequity in our present tax structure. Executives and employees of corporations can have part of their earnings paid into a pension fund without paying taxes on this portion of their earnings at the time. It is only fair that a lawyer, doctor, farmer, or small businessman who is not incorporated should also be able to set aside part of his income before taxes in order to provide retirement income. H.R. 10 would put the self-employed individual on substantially the same basis as the employee of a corporation with respect to saving for retirement.

This proposal has been pending before the Congress for 11 years and the House has passed it several times but the Senate has never even voted on it. While we are concerned with a broad bill correcting inequities in our tax structure, we should also face up to this problem.

I was impressed though with the statement of the distinguished majority leader that he feared the inclusion of H.R. 10 in the tax bill might result in a veto, and that a bill this broad could not then be passed over the President's veto. I was also impressed with the supporting argument by the Senator from Florida [Mr. SMATHERS], who has always been one of the most dedicated supporters of this bill and who reported H.R. 10 from the Finance Committee, when he said that he felt confident that there were sufficient votes to pass H.R. 10, and if necessary override a Presidential veto, if it were vetoed separately.

These remarks, coupled by the majority leader's promise to take up H.R. 10 and pursue it to a final vote immediately upon completion of the tax bill, led me to support the motion to table. I expect to vote for H.R. 10 on final passage and I make this statement now so that my vote in favor of the motion to table will not be misconstrued.

Mr. GORE. Mr. President, I call up my amendment designated "8–27–62—A," and ask that it be identified.

The PRESIDING OFFICER. The amendment will be identified.

The legislative clerk identified the amendment designated "8–27–62—A."

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 175, beginning with line 9, strike out all through line 18, on page 245 (section 12 of the bill), and in lieu thereof insert the following:

"SEC. 12. CONTROLLED FOREIGN CORPORATIONS.

"(a) IN GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

" 'SUBPART F—CONTROLLED FOREIGN CORPORATIONS

" 'Sec. 951. Amounts included in gross income of United States shareholders.
" 'Sec. 952. Limitations on amounts included in gross income of United States shareholders.
" 'Sec. 953. Less developed country corporations defined.
" 'Sec. 954. Withdrawal of previously excluded foreign base company income from qualified investment.
" 'Sec. 955. Investment of earnings in United States property.
" 'Sec. 956. Controlled foreign corporations.
" 'Sec. 957. Rules for determining stock ownership.
" 'Sec. 958. Exclusion from gross income of previously taxed earnings and profits.
" 'Sec. 959. Special rules for foreign tax credit.
" 'Sec. 960. Adjustments to basis of stock in controlled foreign corporations and of other property.
" 'Sec. 961. Miscellaneous provisions.
" 'Sec. 962. Inclusion on a consolidated basis of earnings and profits.

" 'SEC. 951. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

" '(a) AMOUNTS INCLUDED.—

" '(1) IN GENERAL.—If a foreign corporation is a controlled corporation on any day of a taxable year beginning after December 31, 1962, every person who is a United States shareholder (as defined in subsection (b)) of such corporation and who owns (within the meaning of section 957(a)) stock in such corporation on the last day, in such year, on which such corporation is a controlled foreign corporation shall include in his gross income, for his taxable year in which or with which such taxable year of the corporation ends—

" '(A) in case of a controlled foreign corporation which is not a less developed country corporation (as defined in section 953(a)), his pro rata share (determined under paragraph (2)) of the corporation's earnings and profits for such year; and

" '(B) his pro rata share (determined under section 955(a)(2)) of the corporation's increase in earnings invested in United States property for such year (but only to the extent not excluded from gross income under section 958(a)(2)).

" '(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—The pro rata share referred to in paragraph (1)(A) in the case of any United States shareholder is the amount—

" '(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 957(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

" '(B) the amount of any distribution received by any other United States person during such year as a dividend with respect to such stock.

" '(3) LIMITATION ON PRO RATA SHARE OF INVESTMENT IN UNITED STATES PROPERTY.—For purposes of paragraph (1)(B), the pro rata share of any United States shareholder in the increase of the earnings of a controlled foreign corporation invested in United States property shall not exceed an amount (A) which bears the same ratio to his pro rata share of such increase (as determined under section 955(a)(2)) for the taxable year, as (B) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year.

" '(b) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term "United States shareholder" means, with respect to any foreign corporation, a United States person (as defined in section 7701(a)(30)) who owns (within the meaning of section 957(a)), or is considered as owning by applying the rules of ownership of section 957(b), 10 percent or more of the total combined voting power of all classes of stock, or of the total value of shares of all classes of stock, of such foreign corporation.

" '(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247 (c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

" 'SEC. 952. LIMITATIONS ON AMOUNT INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

" '(a) IN GENERAL.—For purposes of section 951(a) the term "earnings and profits for the taxable year" means, in the case of any controlled foreign corporation, the earnings and profits as defined in section 316(a)(2) for the taxable year subject to the provisions of subsections (b) and (c).

" '(b) EXCLUSION OF UNITED STATES INCOME.—Earnings and profits do not include any item includible in gross income under this chapter (other than this subpart) as income derived from sources within the United States of a foreign corporation engaged in trade or business in the United States.

"'(c) LIMITATION.—For purposes of subsection (a), the earnings and profits of any controlled foreign corporation for any taxable year shall not exceed the earnings and profits of such corporation for such year reduced by the amount (if any) by which—

"'(1) the sum of the deficits in earnings and profits for prior taxable years beginning after December 31, 1962, exceeds

"'(2) an amount equal to the earnings and profits described in section 958(c)(3) accumulated for taxable years beginning after December 31, 1962 (determined as of the close of the taxable year).

For purposes of the preceding sentence, any deficit in earnings and profits for any prior taxable year shall be taken into account under paragraph (1) for any taxable year only to the extent it has not been taken into account under such paragraph for any preceding taxable year to reduce earnings and profits of such preceding year.

"'(d) SPECIAL RULE IN CASE OF INDIRECT OWNERSHIP.—For purposes of subsection (c), if—

"'(1) a United States shareholder owns (within the meaning of section 957(a)) stock of a foreign corporation, and by reason of such ownership owns (within the meaning of such section) stock of any other foreign corporation, and

"'(2) any of such foreign corporations has a deficit in earnings and profits for the taxable year,

then the earnings and profits for the taxable year of each such foreign corporation which is a controlled foreign corporation shall, with respect to such United States shareholder, be properly reduced to take into account any deficit described in paragraph (2) in such manner as the Secretary or his delegate shall prescribe by regulations.

"'SEC. 953. LESS DEVELOPED COUNTRY CORPORATIONS DEFINED.

"'(a) LESS DEVELOPED COUNTRY CORPORATIONS.—

"'(1) IN GENERAL.—For purposes of this subpart, the term "less developed country corporation" means a foreign corporation which during the taxable year is engaged in the active conduct of one or more trades or businesses and—

"'(A) 80 percent or more of the gross income of which for the taxable year is derived from sources within less developed countries other than as foreign base company income or as previously excluded foreign base company income withdrawn from qualified investment in less developed country corporations,

"'(B) 80 percent or more in value of the assets of which on each day of the taxable year consists of—

"'(i) property used in such trades or businesses and located in less developed countries,

"'(ii) money, and deposits with persons carrying on the banking business, located in less developed countries,

"'(iii) stock, and obligations which, at the time of their acquisition, have a maturity of 5 years or more, of any other less developed country corporation,

"'(iv) obligations of the government of a less developed country,

"'(v) an investment which is required because of restrictions imposed by a less developed country, and

"'(vi) property described in section 955(b)(2); and

"'(C) is created or organized under the laws of one of the less developed countries in which property described in subparagraph (B)(i) is located.

For purposes of subparagraph (A), the determination as to whether income is derived from sources within less developed countries shall be made under regulations prescribed by the Secretary or his delegate and, for purposes of subparagraph (A) only, amounts previously excluded from foreign base company income withdrawn from qualified investment in less developed country corporations shall be treated as included in gross income.

"'(2) LESS DEVELOPED COUNTRY DEFINED.—for purposes of this subpart, the term "less developed country" means (in respect of any foreign corporation) any foreign country (other than an area within the Sino-Soviet bloc) or any possession of the United States, with respect to which on the first day of the taxable year, there is in effect an Executive order by the President of the United States designating such country or possession as an economically less developed country for purposes of this subpart. For purposes of the preceding sentence, an overseas territory, department, province, or possession may be treated as a separate country. No designation shall be made under this paragraph with respect to Australia, Austria, Belgium, Canada, Denmark, France, Germany (Federal Republic), Hong Kong, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, San Marino, Sweden, Switzerland, Union of South Africa, United Kingdom.

"'(b) FOREIGN BASE COMPANY INCOME.—For purposes of section 952(a)(2), the term "foreign base company income" means for any taxable year the sum of—

"'(1) the foreign personal holding company income for the taxable year (determined under subsection (d)),

"'(2) the foreign base company sales income for the taxable year (determined under subsection (e)), and

"'(3) the foreign base company services income for the taxable year (determined under subsection (f)).

"'(c) EXCLUSIONS AND SPECIAL RULES.—

"'(1) CERTAIN DIVIDENDS AND INTEREST FROM LESS DEVELOPED COUNTRY CORPORATIONS EXCLUDED.—For purposes of subsection (b), foreign base company income does not include dividends and interest received during the taxable year by a controlled foreign corporation from qualified investments in less developed country corporations (as defined in section 954(d)), to the extent that such dividends and interest do not exceed the increase for the taxable year in qualified investments in less developed country corporations of the controlled foreign corporation (as determined under subsection (g)).

"'EXCEPTION FOR FOREIGN CORPORATIONS NOT AVAILED OF TO REDUCE TAXES.—For purposes of subsection (b), foreign base company income does not include any item of income received by a controlled foreign corporation if it is established to the satisfaction of the Secretary or his delegate with respect to such item that the creation or organization of the controlled foreign corporation receiving such item under the laws of the foreign country in which it is incorporated does not have the effect of substantial reduction of income, war profits, excess profits, or similar taxes.

"'(3) ITEMS OF INCOME TO BE INCLUDED ONLY ONCE.—If an item of income would, but for the provisions of this paragraph, be includible as an item of income under more than one paragraph of subsection (b), such item shall be included under the paragraph specified by regulations prescribed by the Secretary or his delegate.

"'(d) FOREIGN PERSONAL HOLDING COMPANY INCOME.—

"'(1) IN GENERAL.—For purposes of subsection (b)(1), the term "foreign personal holding company income" means the foreign personal holding company income (as defined in section 553), modified and adjusted as provided in paragraphs (2), (3), and (4).

"'(2) RENTS INCLUDED WITHOUT REGARD TO 50 PERCENT LIMITATION.—For purposes of paragraph (1), all rents shall be included in foreign personal holding company income without regard to whether or not such rents constitute more than 50 percent of gross income.

"'(3) CERTAIN INCOME DERIVED IN ACTIVE CONDUCT OF TRADE OR BUSINESS.—For purposes of paragraph (1), foreign personal holding company income does not include dividends, interest, rents, and royalties which—

"'(A) are derived in the active conduct of a trade or business; and

"'(B) are received from a person other than a related person (within the meaning of subsection (e)(3)).

"'(4) CERTAIN INCOME RECEIVED FROM RELATED PERSONS.—For purposes of paragraph (1), foreign personal holding company income does not include—

"'(A) dividends and interest received from a related person which (i) is organized under the laws of the same foreign country under the laws of which the controlled foreign corporation is created or organized, and (ii) has a substantial part of its assets used in its trade or business located in such same foreign country; or

"'(B) rents, royalties, and similar amounts received from a related person for the use of, or the privilege of using, property within the country under the laws of which the controlled foreign corporation is created or organized.

"'(e) FOREIGN BASE COMPANY SALES INCOME.—

"'(1) IN GENERAL.—For purposes of subsection (b)(2), the term "foreign base company sales income" means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with the purchase of personal property from a related person and its sale to any person, the sale of personal property to any person on behalf of a related person, the purchase of personal property from any person and its sale to a related person, or the purchase of personal property from any person on behalf of a related person, where—

"'(A) the property which is purchased (or in the case of property sold on behalf of a related person, the property which is sold) is manufactured, produced, grown, or extracted outside the country under the laws of which the controlled foreign corporation is created or organized, and

"'(B) the property is sold for use, consumption, or disposition outside such foreign country, or, in the case of property purchased on behalf of a related person, is purchased for use, consumption, or disposition outside such foreign country.

"'(2) CERTAIN BRANCH INCOME.—For purposes of determining foreign base company sales income (within the terms of paragraph (1)), in situations in which the carrying on of activities by a controlled foreign corporation through a branch or similar establishment outside the country of incorporation of the controlled foreign corporation has substantially the same effect as if such branch or similar establishment were a wholly owned subsidiary corporation deriving such income, then, under regulations prescribed by the Secretary or his delegate, the income attributable to the carrying on of such activities of such branch or similar establishment shall be treated as income derived by a wholly owned subsidiary of the controlled foreign corporation and shall constitute foreign base company sales income of the controlled foreign corporation.

"'(3) RELATED PERSON DEFINED.—For purposes of this section, a person is a related person with respect to a controlled foreign corporation, if—

"'(A) such person is an individual, partnership, trust, or estate which controls the controlled foreign corporation;

"'(B) such person is a corporation which controls, or is controlled by, the controlled foreign corporation; or

"'(C) such person is a corporation which is controlled by the same person or persons which control the controlled foreign corporation.

For purposes of the preceding sentence, control means the ownership, directly or indirectly, of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote. For purposes of this paragraph, the rules for determining ownership of stock prescribed by section 957 shall apply.

"'(f) FOREIGN BASE COMPANY SERVICES INCOME.—For purposes of subsection (b)(3), the term "foreign base company services income" means income (whether in the form of compensation, commissions, fees, or otherwise) derived in connection with the performance or furnishing of technical, managerial, engineering, architectural, scientific, skilled, industrial, commercial, or like services which are—

"'(1) performed or furnished for or on behalf of any related person (within the meaning of subsection (e)(3)), and

"'(2) are performed or furnished for or in connection with business activities carried on by such related person outside the country under the laws of which the controlled foreign corporation is created or organized.

"'(g) INCREASE IN QUALIFIED INVESTMENTS IN LESS DEVELOPED COUNTRY CORPORATIONS.—For purposes of subsection (c)(1), the increase for any taxable year in qualified investments in less developed country corporations of any controlled foreign corporation is the amount by which—

"'(1) the qualified investments in less developed country corporations (as defined in section 954(b)) of the controlled foreign corporation at the close of the taxable year, exceeds

"'(2) the qualified investments in less developed country corporations (as so defined) of the controlled foreign corporation at the close of the preceding taxable year.

"'SEC. 954. WITHDRAWAL OF PREVIOUSLY EXCLUDED FOREIGN BASE COMPANY INCOME FROM QUALIFIED INVESTMENT.

"'(a) GENERAL RULES.—

"'(1) AMOUNT WITHDRAWN.—For purposes of this subpart, the amount of previously excluded foreign base company income of any controlled corporation withdrawn from investment in less developed country corporations for any taxable year is an amount equal to the decrease in the amount of qualified investments in less developed country corporations of the controlled foreign corporation for such year, but only to the extent that the amount of such decrease does not exceed an amount equal to—

"'(A) the sum of the amounts excluded under section 953(b)(1) from the foreign base company income of such corporation for all prior taxable years, reduced by

"'(B) the sum of the amounts previously excluded from foreign base company income withdrawn from investment in less developed country corporations of such corporation determined under this subsection for all prior taxable years.

"'(2) DECREASE IN QUALIFIED INVESTMENTS.—For purposes of paragraph (1), the amount of the decrease in qualified investments in less developed country corporations of any controlled foreign corporation for any taxable year is the amount by which—

"'(A) the amount of qualified investments in less developed country corporations of the controlled foreign corporation at the close of the preceding taxable year, exceeds

"'(B) the amount of qualified investments in less developed country corporations of the controlled foreign corporation at the close of the taxable year, to the extent the amount of such decrease does not exceed the sum of the earnings and profits for the taxable year and the earnings and profits accumulated for prior taxable years beginning after December 31, 1962. For purposes of this paragraph, if qualified investments in less developed country corporations are disposed of by the controlled foreign corporation during the taxable year, the amount of the decrease in qualified investments in less developed country corporations of such controlled foreign corporation for such year shall be reduced by an amount equal to the amount (if any) by which the losses on such dispositions during such year exceed the gains on such dispositions during such year.

"'(3) PRO RATA SHARE OF AMOUNT WITHDRAWN.—In the case of any United States shareholder the pro rata share of the amount of previously excluded foreign base company income of any controlled foreign corporation withdrawn from investment in less developed country corporations for any taxable year is his pro rata share of the amount determined under paragraph (1).

"'(b) QUALIFIED INVESTMENTS IN LESS DEVELOPED COUNTRY CORPORATIONS.—

"'(1) IN GENERAL.—For purposes of this subpart, the term "qualified investments in less developed country corporations" means property acquired after December 31, 1962, which is—

"'(A) stock of a less developed country corporation held by the controlled foreign corporation, but only if the controlled foreign corporation owns 10 percent or more of the total combined voting power of all classes of stock, or of the total value of shares of all classes of stock, of such less developed country corporation; or

"'(B) an obligation of a less developed country corporation held by the controlled foreign corporation, which, at the time of its acquisition by the controlled foreign corporation, has a maturity of 5 years or more, but only if the controlled foreign corporation owns 10 percent or more of the total combined voting power of all classes of stock, or of the total value of shares of all classes of stock, of such less developed country corporation.

"'(2) COUNTRY CEASES TO BE LESS DEVELOPED COUNTRY.—For purposes of this subpart, property which would be a qualified investment in less developed country corporations, but for the fact that a foreign country has, after the acquisition of such property by the controlled foreign corporation, ceased to be a less developed country, shall be treated as a qualified investment in less developed country corporations.

"'(3) INVESTMENTS AFTER CLOSE OF YEAR.—For purposes of this subpart, a controlled foreign corporation may, under regulations prescribed by the Secretary or his delegate, elect to treat property described in paragraph (1) or (2) which was acquired after the close of a taxable year and on or before the close of the following taxable year, or on or before such day after the close of the following taxable year as such regulations may prescribe, as having been acquired on the last day of such year.

"'(4) AMOUNT ATTRIBUTABLE TO PROPERTY.—The amount taken into account under this subpart with respect to any property described in paragraph (1) or (2) shall be its adjusted basis, reduced by any liability to which such property is subject.

"'SEC. 955. INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

"'(a) GENERAL RULES.—For purposes of this subpart—

"'(1) AMOUNT OF INVESTMENT.—The amount of earnings of a controlled foreign corporation invested in United States property at the close of any taxable year is the aggregate amount of such property held, directly or indirectly, by the controlled foreign corporation at the close of the taxable year, to the extent such amount would have constituted a dividend (determined after the application of section 954(a)) if it had been distributed.

"'(2) PRO RATA SHARE OF INCREASE FOR YEAR.—In the case of any United States shareholder, the pro rata share of the increase for any taxable year in the earnings of a controlled foreign corporation invested in United States property is the amount determined by subtracting—

"'(A) his pro rata share of the amount determined under paragraph (1) for the close of the preceding taxable year, reduced by amounts paid during the taxable year to which section 958(c)(1) applies, from

"'(B) his pro rata share of the amount determined under paragraph (1) for the close of the taxable year.

"'(3) AMOUNT ATTRIBUTABLE TO PROPERTY.—The amount taken into account under paragraph (1) or (2) with respect to any property shall be its adjusted basis, reduced by any liability to which the property is subject.

"'(b) UNITED STATES PROPERTY DEFINED.—

"'(1) IN GENERAL.—For purposes of subsection (a), the term "United States property" means any property acquired after December 31, 1962, which is—

"'(A) tangible property located in the United States;

"'(B) stock of a domestic corporation; or

"'(C) an obligation of a United States person.

"'(2) EXCEPTIONS.—For purposes of subsection (a), the term "United States property" does not include—

"'(A) money, or deposits with persons carrying on the banking business, located in the United States;

"'(B) property located in the United States which is purchased in the United States for export to, or use in, foreign countries;

"'(C) any obligation of a United States person arising in connection with the sale of property if the amount of such obligation outstanding at no time during the taxable year exceeds the amount which would be ordinary and necessary to carry on the trade or business of both the other party to the sale transaction and the United States person had the sale been made between unrelated persons;

"'(D) any aircraft, railroad rolling stock, vessel, motor vehicle, or container used in the transportation of persons or property in foreign commerce and used predominantly outside the United States; or

"'(E) the amount of assets of an insurance company equivalent to the unearned premiums on outstanding business with respect to reinsurance contracts or insurance or annuity contracts—

"'(i) in connection with property or liability arising out of activity in, or in connection with the lives or health of residents of, the United States, or

"'(ii) in connection with property not included in subdivision (i) as the result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect of any reinsurance or the issuing of any insurance or annuity contract in connection with property or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

"'(c) PLEDGES AND GUARANTEES.—For purposes of subsection (a), a controlled foreign corporation shall, under regulations prescribed by the Secretary or his delegate, be considered as holding an obligation of a United States person if it is a pledgor or guarantor of such obligation.

"'SEC. 956. CONTROLLED FOREIGN CORPORATIONS.

"'(a) GENERAL RULE.—For purposes of this subpart, the term "controlled foreign corporation" means any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock

entitled to vote is owned (within the meaning of section 957(a)), or is considered as owned by applying the rules of ownership of section 957(b), by United States shareholders on any day during the taxable year of such foreign corporation.

"'(b) CORPORATIONS ORGANIZED IN UNITED STATES POSSESSIONS.—For purposes of this subpart, the term "controlled foreign corporation" does not include any corporation created or organized in the Commonwealth of Puerto Rico or a possession of the United States or under the law of the Commonwealth of Puerto Rico or a possession of the United States if—

"'(1) 80 percent or more of the gross income of such corporation (computed without regard to section 931) for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within the Commonwealth of Puerto Rico or a possession of the United States; and

"'(2) 50 percent or more of the gross income of such corporation (computed without regard to section 931) for such period, or for such part thereof, was derived from the active conduct within the Commonwealth of Puerto Rico or a possession of the United States of any trades or businesses constituting the manufacture or processing of goods, wares, merchandise, or other tangible personal property; the processing of agricultural or horticultural products or commodities (including but not limited to livestock, poultry or fur-bearing animals); the catching or taking of any kind of fish or mining or extraction of natural resources, or any other manufacturing or processing of any products or commodities obtained from such activities; or the ownership or operation of hotels.

For purposes of paragraphs (1) and (2), the determination as to whether income was derived from sources within the Commonwealth of Puerto Rico or a possession of the United States and was derived from the active conduct of a described trade or business within the Commonwealth of Puerto Rico or a possession of the United States shall be made under regulations prescribed by the Secretary or his delegate.

"'SEC. 957. RULES FOR DETERMINING STOCK OWNERSHIP.

"'(a) DIRECT AND INDIRECT OWNERSHIP.—

"'(1) GENERAL RULE.—For purposes of this subpart (other than sections 954 (b)(1)(A) and (B)), stock owned means—

"'(A) stock owned directly, and

"'(B) stock owned with the application of paragraph (2).

"'(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation, foreign partnership, or foreign trust or foreign estate (within the meaning of section 7701(a)(31)) shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"'(3) SPECIAL RULE FOR MUTUAL INSURANCE COMPANIES.—For purposes of applying paragraph (1) in the case of a foreign mutual insurance company, the term "stock" shall include any certificate entitling the holder to voting power in the corporation.

"'(b) CONSTRUCTIVE OWNERSHIP.—For purposes of section 951(b), 953(e)(3), and 956, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any United States person as a United States shareholder within the meaning of section 953(e)(3), or to treat a foreign corporation as a controlled foreign corporation under section 956, except—

"'(1) In applying paragraph (1)(A) of section 318(a), stock owned by a nonresident alien individual (other than a foreign trust or foreign estate) shall not be considered as owned by a citizen or by a resident alien individual.

"'(2) In applying the first sentence of subparagraphs (A) and (B), and in applying clause (i) of subparagraph (C), of section 318(a)(2)—

"'(A) if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all the stock entitled to vote, and

"'(B) if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total value of shares of all classes of stock of a corporation, it shall be considered as owning the total value of all of the outstanding stock of such corporation. The application of this subparagraph shall not have the effect of increasing voting power of a partner, beneficiary, or shareholder, for purposes of subparagraph (A).

"'(3) Stock owned by a partnership, estate, trust, or corporation, by reason of the application of the second sentence of subparagraphs (A) and (B), and the application of clause (ii) of subparagraph (C), of section 318(a)(2), shall not be considered as owned by such partnership, estate, trust, or corporation, for the purposes of applying the first sentence of subparagraphs (A) and (B), and in applying clause (i) of subparagraph (C), of section 318(a)(2).

"'(4) In applying clause (i) of subparagraph (C) of section 318(a)(2), the phrase "10 percent" shall be substituted for the phrase "50 percent" used in subparagraph (C).

"'SEC. 958. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS.

"'(a) EXCLUSION FROM GROSS INCOME OF UNITED STATES PERSONS.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 951(a) shall not, when—

"'(1) such amounts are distributed to, or

"'(2) such amounts would, but for this subsection, be included under section 951(a)(1)(B) in the gross income of,

such shareholder (or any other United States person who acquires from any person any portion of the interest of such United States shareholder in such foreign corporations, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary or his delegate may by regulations prescribe) directly, or indirectly through a chain of ownership described under section 957(a), be again included in the gross income of such United States shareholder (or of such other United States person).

"'(b) EXCLUSION FROM GROSS INCOME OF CERTAIN FOREIGN SUBSIDIARIES.—For purposes of section 951(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 951(a), shall not, when distributed through a chain of ownership described under section 957(a), be also included in the gross income of another controlled foreign corporation in such chain for purposes of the application of section 951(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identiy of such interest as the Secretary or his delegate may prescribe by regulations).

"'(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"'(1) first to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which would have been included except for subsection (a)(2)),

"'(2) then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included under section 951(a)(1)(B) because of the exclusion in subsection (a)(2), and

"'(3) then to other earnings and profits.

"'(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Except as provided in section 959(a)(3), any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"'SEC. 959. SPECIAL RULES FOR FOREIGN TAX CREDIT.

"'(a) TAXES PAID BY A FOREIGN CORPORATION.—

"'(1) GENERAL RULE.—For purposes of subpart A of this part, if there is included, under section 951(a), in the gross income of a domestic corporation any amount attributable to earnings and profits—

"'(A) of a foreign corporation at least 10 percent of the voting stock of which is directly owned by such domestic corporation, or

"'(B) of a foreign corporation at least 50 percent of the voting stock of which is directly owned by a foreign corporation at least 10 percent of the voting stock of which is in turn directly owned by such domestic corporation,

then, under regulations prescribed by the Secretary or his delegate, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid, if paragraph (4) applies) by such foreign corporation to a foreign country or possession of the United States for the taxable year which the amount of earnings and profits of such foreign corporation so included in gross income of the domestic corporation bears to the entire amount of the total earnings and profits of such foreign corporation for such taxable year.

"'(2) TAXES PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—If a domestic corporation receives a distribution from a foreign corporation, any portion of which is excluded from gross income under section 958, the income, war profits, and excess profits taxes paid or deemed paid by such foreign corporation to any foreign country or to any possession of the United States in connection with the earnings and profits of such foreign corporation from which such distribution is made shall not be taken into account for purposes of section 902, to the extent such taxes were deemed paid by such domestic corporation under paragraph (1) for any prior taxable year.

"'(3) TAXES PAID BY FOREIGN CORPORATION AND NOT PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—Any portion of a distribution from a foreign corporation received by a domestic corporation which is excluded from gross income under section 958(a) shall be treated by the domestic corporation as a dividend, solely for purposes of taking into account under section 902 any income, war profits, or excess profits taxes paid to any

foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such distribution is made, which were not deemed paid by the domestic corporation under paragraph (1) for any prior taxable year.

"'(4) TAXES PAID BY A FOREIGN SUBSIDIARY.—If subparagraph (A) of paragraph (1) applies with respect to an amount included in gross income under section 951(a) for a taxable year, then such amount shall be considered a dividend for purpose of the application of section 902(b).

"'(5) INCLUSION IN GROSS INCOME.—

"'For inclusion in gross income of amount equal to taxes deemed paid under paragraph (1), see section 78.

"'(b) SPECIAL RULES FOR FOREIGN TAX CREDIT IN YEAR OF RECEIPT OF PREVIOUSLY TAXED EARNINGS AND PROFITS.—

"'(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"'(A) either (i) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 951 (a) to include in his gross income an amount in respect of a controlled foreign corporation, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States, and

"'(B) chooses to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 958(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A), and

"'(C) for the taxable year in which such distribution or amount is received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distribution or amount,

the applicable limitation under section 904 for the taxable year in which such distribution or amount is received shall be increased as provided in paragraph (2), but such increase shall not exceed the amount of such taxes paid, or deemed paid, or accrued with respect to such distribution or amount.

"'(2) AMOUNT OF INCREASE.—The amount of increase of the applicable limitation under section 904(a) for the taxable year in which the distribution or amount referred to in paragraph (1) (B) is received shall be an amount equal to—

"'(A) the amount by which the applicable limitation under secton 904(a) for the taxable year referred to in paragraph (1)(A) was increased by reason of the inclusion in gross income under section 951(a) of the amount in respect of the controlled foreign corporation, reduced by

"'(B) the amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for the taxable year referred to in paragraph (1)(A) and which would not have been allowable but for the inclusion in gross income of the amount described in subparagraph (A).

"'(3) CASES IN WHICH TAXES NOT TO BE ALLOWED AS DEDUCTION.—In the case of any taxpayer who—

"'(A) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 951(a) to include in his gross income an amount in respect of a controlled foreign corporation, and

"'(B) does not choose to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 958(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A),

no deduction shall be allowed under section 164 for the taxable year in which such distribution or amount is received for any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States on or with respect to such distribution or amount.

"'(4) INSUFFICIENT TAXABLE INCOME.—If an increase in the limitation under this subsection exceeds the tax imposed by this chapter for such year, the amount of such excess shall be deemed an overpayment of tax for such year.

"'SEC. 960. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATION AND OF OTHER PROPERTY.

"'(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary or his delegate, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which he is considered under section 857(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in his gross income under section 951(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"'(b) REDUCTION IN BASIS.—

"'(1) IN GENERAL.—Under regulations prescribed by the Secretary or his delegate, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross income under section 958(a) shall be reduced by the amount so excluded.

"'(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 958(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"'SEC. 961. MISCELLANEOUS PROVISIONS.

"'(a) EARNINGS AND PROFITS.—For purposes of this subpart, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year shall be determined according to rules substantially similar to those applicable to domestic corporations, under regulations prescribed by the Secretary or his delegate.

"'(b) BLOCKED FOREIGN INCOME.—Under regulations prescribed by the Secretary or his delegate, no part of the earnings and profits of a controlled foreign corporation for any taxable year shall be included in earnings and profits for purposes of sections 952, 954, and 955, if it is established to the satisfaction of the Secretary or his delegate that such part could not have been distributed by the controlled foreign corporation to United States shareholders who own (within the meaning of section 957(a)) stock of such controlled foreign corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

"'(c) RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.—The Secretary or his delegate may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"'SEC. 962. INCLUSION IN GROSS INCOME ON CONSOLIDATED BASIS OF EARNINGS AND PROFITS.

"'(a) GENERAL RULE.—A United States shareholder may elect to include in gross income under section 951 on a consolidated basis the earnings and profits (less his pro rata share of deficits) of controlled foreign corporations.

"'(b) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as he may deem necessary in order that the tax liability with respect to the earnings and profits (less deficits) of controlled foreign corporations for which the election provided for under subsection (a) is exercised and of each separate corporation, both during and after the period of such consolidation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the income tax liability and the various factors necessary for determination of such liability, and in order to prevent avoidance of such tax liability.'

"(b) TECHNICAL AND CLERICAL AMENDMENTS.—

"(1) Section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholders) is amended by adding at the end thereof the following new sentence: 'The amount included in the gross income of any United States shareholder for any taxable year under the preceding sentence shall be reduced by such shareholder's proportionate share of the undistributed personal holding company income which is included in his gross income under section 951(a)(1)(A) (relating to amounts included in gross income of United States shareholders) for such taxable year as his pro rata share of the earnings and profits of the company.'

"(2) Section 901 (relating to foreign tax credit) is amended by striking out 'section 902' and inserting in lieu thereof 'sections 902 and 960'.

"(3) Section 902(e) is amended to read as follows:

"'(e) CROSS REFERENCES.—

"'(1) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by United States shareholder with respect to a controlled foreign corporation, see section 960.

"'(2) For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038.'

"Section 904(f) is amended to read as follows:

"'(f) CROSS REFERENCES.—

"'(1) For increase of applicable limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b).

"'(2) For special rule relating to the application of the credit providing by section 901 in the case of affiliated groups which include Western Hemisphere trade corporations for years in which the limitation provided by subsection (a)(2) applies, see section 1503(d).'

"(5) The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

"'SUBPART F. CONTROLLED FOREIGN CORPORATIONS.'

"(6) Section 1016(a) (relating to adjustments to basis) is amended—

"(A) by striking out the period at the end of paragraph (18) and inserting in lieu thereof a semicolon; and

"(B) by adding after paragraph (18) the following new paragraph:

"'(19) to the extent provided in section 961 in the case of stock in controlled foreign corporations (or foreign corporations which were controlled foreign corporations) and of

property by reason of which a person is considered as owning such stock.'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end."

Page 164, after line 18, insert the following new section:

"SEC. . SALES AND EXCHANGES OF PATENTS, ETC., TO CERTAIN FOREIGN CORPORATIONS.

"(a) TREATMENT OF GAIN AS ORDINARY INCOME.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding after section 1248 (as added by section 16 of this Act) the following new section:

"'SEC. 1249. GAIN FROM CERTAIN SALES OR EXCHANGES OF PATENTS, ETC., TO FOREIGN CORPORATIONS.

"'(a) GENERAL RULES.—Gain from the sale or exchange after December 31, 1962, of a patent, an invention, model, or design (whether or not patented), a copyright, a secret formula or process, or any other similar property right to any foreign corporation by any United States person (as defined in section 7701(a) (30)) which controls such foreign corporation shall, if such gain would (but for the provisions of this subsection) be gain from the sale or exchange of a capital asset or of property described in section 1231, be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

"'(b) CONTROL.—For purposes of subsection (a), control means, with respect to any foreign corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote. For purposes of this subsection, the rules for determining ownership of stock prescribed by section 957 shall apply.

"'(c) OTHER TRANSFERS OF PATENT RIGHTS, ETC., TO FOREIGN CORPORATIONS.—

"'For allocation, etc., of income by the Secretary or his delegate, in case of corporations owned or controlled directly or indirectly by the same interests, see section 482(a).'

"(b) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by adding at the end thereof the following:

"'SEC. 1249. Gain from certain sales or exchanges of patents, etc., to foreign corporations.'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1962."

Mr. GORE. Mr. President, this amendment is the identical text presented to the Committee on Finance by the Secretary of the Treasury. It proposes to require the annual payment of taxes by U.S. taxpayers on profits earned in foreign countries through foreign corporations controlled by U.S. taxpayers or foreign subsidiaries of U.S. corporations.

I have already spoken at considerable length on this subject in the debate on the pending bill. Earlier this year I made a series of four major addresses on this subject. Therefore, my views are well known to the Senate and are clearly a matter of record. It seems to me that this makes it unnecessary to debate the amendment at great length, unless Senators have questions or unless statements are made which require refutation or answer.

Existing tax law gives many advantages to business operations in foreign countries.

One of the factors now at work to draw economic activities abroad and keep them there is the tax magnet, the tax advantage, the tax subsidy existing in present U.S. law which favors operations in countries other than our own. This is not the only force at work, of course; but it is one about which Congress can do something effective at this session and in this bill. The pending bill contains many provisions affecting the taxation of income and profits earned abroad. Many of these provisions are meritorious and deserve support. The major deficiency in the bill in this respect is that it does not go far enough to do the job effectively.

The pending amendment is a substitute for section 12. As I have said, it is identical to the provision which the Treasury Department drafted. It follows the recommendation of President Kennedy. It was submitted to the Finance Committee by Secretary Dillion; and I introduced the amendment as a bill, after it had been presented to the Senate Finance Committee.

Section 12 is the principal section dealing with the taxation of foreign operations. As now drafted and included in the bill, it is a purely tax-haven approach to the problem. It is good as far as it goes, and would do about half the job which needs to be done. I wish to express gratitude that Congress is, on this subject, at least going in the right direction, finally. Only 2 years ago a bill, identified as H.R. 5, was nearing enactment; and it would have created a greater tax subsidy and would have provided greater incentive for the movement of American industry and the making of investments by American interests abroad. However, now that the Congress is proceeding in the right direction, we must do an effective job. Half a loaf is not enough, when the full loaf is attainable.

My amendment strikes directly at the heart of the entire question of the deferral of payment of U.S. income taxes. As the law now stands, U.S. income taxes on profits earned abroad through foreign corporations may be indefinitely or even permanently postponed. In the case of a foreign subsidiary corporation organized in a tax-haven country, this may amount to virtual forgiveness of all income taxes, both United States and foreign. Even in nontax-haven countries, tax favors such as those now being given in southern Italy and elsewhere may eliminate all income taxes for several years, until the operation concerned has grown and matured through reinvestment of tax-free earnings. As I have said, the tax-haven approach embodied in the bill, while accomplishing something, is far from sufficient. We should, and I think we must, do more. What we must do if we are to make progress toward a real solution of this problem is to strike directly at the deferral privilege in our own tax law, so that U.S. taxpayers are taxed annually on the profits they realize through their foreign investments in technically foreign corporations which they control.

The Secretary of the Treasury has agreed that anything short of this would be but "piddling" with the job. I call the testimony of Secretary Dillon on this point to the attention of the Senate.

The President of the United States, in his message to Congress on April 20, 1961, said:

I, therefore, recommend that legislation be adopted which would, after a two-step transitional period, tax each year American corporations on their current share of the undistributed profits realized in that year by subsidiary corporations organized in economically advanced countries. This current taxation would also apply to individual shareholders of closely held corporations in those countries.

So, Mr. President, we have the request and the recommendation of President Kennedy, and we have the testimony of the Secretary of the Treasury, Douglas Dillon; and the Senate has before it an amendment—drafted by the Treasury Department—to implement the recommendations of the President and the Secretary of the Treasury.

I ask the Senate to adopt it. I think it is a good provision. It will eliminate the tax subsidy for the movement of business and industry and jobs abroad.

As I have said, the pending amendment does exactly what President Kennedy sought and requested. The bill as it has come to the Senate from the Senate Finance Committee falls far short of this desirable end. The concern of American citizens with the flight abroad of business and jobs and capital is a deep one, and this is a serious problem. The outflow of capital adversely affects the national interest. It creates a severe balance-of-payments problem; and it is one of the big factors creating widespread unemployment in our country.

To illustrate the concern of working men and women, I wish to read to the Senate a telegram which I received today from Mr. George Meany, president of AFL–CIO. I believe other Members of the Senate received an identical telegram.

Senator GORE: AFL–CIO firmly believes that Gore amendment on foreign income is essential to tax equity and to prevent export of jobs of American workers. Finance Committee bill continues practice of subsidizing oversea investment through tax incentives. Therefore our tax laws are subsidizing manufacture of products abroad instead of in the United States, cutting exports and eliminating American jobs. Gore amendment would not prevent foreign investment. It would merely remove the tax incentive to such investment. I therefore urge you to vote for the Gore foreign income amendment.

GEORGE MEANY,
President, AFL–CIO.

The amendment to which this telegram refers is now pending at the desk, and upon this amendment we shall soon have a vote. The amendment provides that those U.S. taxpayers who own as much as 10 percent of the stock of a foreign corporation which is controlled by these American taxpayers will be taxed each year on their share of the profits made by these foreign corporations.

As President Kennedy has recommended, this amendment provides for an exception in the case of a corpora-

tion doing business in an underdeveloped country unless most of the income of that corporation is of a tax-haven type.

For the benefit of those who have not had an opportunity to study the provisions of this amendment, let me give a few additional details. Under this amendment, deferral of taxes of U.S. taxpayers based on the income of controlled foreign corporations, as defined in the amendment, would be eliminated except, as I have noted, with regard to certain corporations operating legitimately in underdeveloped countries.

This approach to the problem is, of course, a more direct and all-inclusive approach than that contained in section 12 of the pending bill, which is aimed, as I have said, merely at tax-haven operations.

I submit that the tax-haven-operation approach will do only about 50 percent of the job which needs to be done if we are going to put our tax laws in a position of neutrality with respect to domestic and foreign operations of U.S. interests.

This amendment would affect only foreign operations which are in fact controlled by American interests. A "controlled foreign corporation" is defined as one which is more than 50 percent owned by U.S. taxpayers each of whom owns at least 10 percent of the stock of the foreign corporation. As I have stated, an exception is made for legitimate operations in underdeveloped countries, and in this respect the amendment pretty well follows section 12 of the bill.

The tax-haven operations, even in underdeveloped countries, however, are included in operations to be taxed currently by providing that a "less-developed-country corporation" must not receive a sizable amount of its income from the typical tax-haven activities—that is, base-company income.

The amendment has been carefully drafted by technicians in the Treasury Department in consultation with our own experts here on the Hill. It has been reworked several times since it was first drafted at my request more than a year ago. So it comes, I believe, as a carefully drawn measure, with the recommendation and endorsement of President Kennedy and Secretary Dillon.

As Mr. Meany's telegram points out, my amendment in no way seeks to prevent U.S. citizens from investing their capital abroad, in whatever amounts they please. Perhaps the Congress should consider placing the export of capital under some reasonable regulation, but that question is not now before the Senate. My amendment does not propose that.

All that my amendment would do would be to require the U.S. owners of foreign corporate subsidiaries and foreign corporations controlled by American taxpayers to be amenable, on an annual basis, to the tax laws of the United States. In other words, the income from such corporations to the U.S. taxpayer who owns and controls such foreign corporations would be taxable on an annual basis.

Annual payment of taxes is not an innovation, Madam President, and every American taxpayer whose income is earned in the United States must pay such taxes annually. Why should we permit a corporation that builds up industry abroad through a technically foreign subsidiary and earns a profit in doing so to defer the payment of its taxes until such time as it may suit the purposes and desires of such corporation?

I do not know why we should discriminate against an American citizen or corporation who invests in economic and industrial development in the United States. Conversely, I do not see either the sense or justice in rewarding one with a tax favor who builds an industry and makes jobs in other countries.

Let me repeat and make perfectly plain that my amendment would not prevent any American taxpayer from investing to his heart's content in a foreign country, but I do respectfully submit that I do not think we should continue to reward him for doing so by means of favored tax treatment.

There may have been a time when our national interest was served by encouraging the investment of American capital abroad. I refer particularly to Western Europe, in its war-torn condition during the period following World War II. But that period has passed. Now business activity in Western Europe is growing at 2½ times the rate of economic growth of the United States. It is to Western Europe that much of our migrating capital is flowing, and most of this flow to Europe goes into manufacturing establishments.

We are now beginning to get the backwash of imports into the United States of goods manufactured abroad by corporations financed by American capital, employing American know-how, using well-known and well-established American trade names and brands.

The most difficult competition which an American businessman faces comes from imports of goods manufactured by American capital with American know-how abroad, bearing a trade name which has long been established in our country.

Mr. MORSE. Madam President, will the Senator yield?

The PRESIDING OFFICER. (Mrs. NEUBERGER in the chair). Does the Senator yield?

Mr. GORE. I yield.

Mr. MORSE. I am glad the Senator from Tennessee is emphasizing this point again, because it needs to be emphasized over and over. I should like to have my Democratic Party know that there is a growing resentment against Democratic Party policy in regard to this matter, as manifested in this bill and as illustrated by the Senator from Tennessee in the point he is now making.

What we are doing, in effect, is exporting American jobs abroad, to the great detriment and economic hardship of American labor, American farmers, and of American consumers generally.

I wish to cite two industries in which this is particularly notorious at the present time. The first is the movie industry. This has brought a great depression to the movie industry of this country, as American investors go abroad filming movies and bringing them to the United States, further depressing our movie industry. The other is the music industry, in regard to musical productions and the development of records, as a result of which a great many musicians in this country are out of work.

I am one Democrat who leaves the party on this issue. That does not mean I leave the party—I leave it on this issue, because the Democratic Party, in my judgment, is dead wrong. I do not know why we should play the Republicans' game for them.

Mr. GORE. I wish to point out to my distinguished friend that the amendment I have offered, which is now pending, was recommended by President Kennedy. It was drafted by the Treasury Department. It was submitted to the Senate Finance Committee. This is what the administration requested, recommended, and desired.

I take it that the Senator's remark with respect to the Democratic Party applies not to the original recommendation by President Kennedy, but to the bill recommended by the Finance Committee, which is now before the Senate.

Mr. MORSE. And to the President's support of the bill now before the Senate.

Mr. GORE. I was hoping that before the vote the President might again request the Congress to do an effective job with respect to removing the preferential tax treatment of income earned abroad. I must say that I know of no official record which shows that either the President or the Secretary of the Treasury supports the provisions of section 12 of the pending bill.

Mr. MORSE. Madam President, will the Senator yield?

Mr. GORE. I will yield in a moment.

I read in the newspapers that the terms of the pending bill have the tacit support of the administration, whatever that means. But I am going by the record. We have seen the President's recommendations. We have heard the testimony by the Secretary of the Treasury in support of those recommendations. We have before us the text of the amendment presented by the administration.

Now I yield to the Senator.

Mr. MORSE. Is the Senator from Tennessee laboring under any mistaken notion that the President of the United States does not know the Senate is about to have a third reading of this bill?

Mr. GORE. I am sure the President is perfectly aware of the progress of this proposed legislation.

Mr. MORSE. The bill has been under debate in the Senate for a good many days, has it not?

Mr. GORE. Yes, indeed.

Mr. MORSE. The Secretary of the Treasury and the President of the United States have been in Washington, D.C., most of that time, have they not?

Mr. GORE. Yes.

Mr MORSE. Does the Senator have any indication of any message which has been brought to us, directly or indirectly, officially or unofficially, of any

disapproval by the President or by the Secretary of the Treasury of this bill?

Mr. GORE. No. On the other hand, I know of no record indicating any disapproval of the amendment which I have offered.

Mr. MORSE. I shall vote for the Senator's amendment, but I wish to state that I have recently returned from my State. I want the President of the United States to know that, in my judgment, the overwhelming majority of the people of my State will have none of this bill, as they will have none of the satellite bill and as they will have none of a whole series of mistakes being made in recent weeks in regard to legislation before the Senate.

Mr. GORE. Madam President, the senior Senator from Oregon referred to the movie industry. I recently read an advertisement of a movie in a Washington, D.C., newspaper. A statement was made in the advertisement that this was the first major movie which had been made in Hollywood in a long while. I do not remember the exact time, but I believe it was 5 years.

The senior Senator from California on the floor of the Senate only a few days ago referred to Hollywood as a ghost city.

Mr. MORSE. Madam President, will the Senator yield?

Mr. GORE. I yield.

Mr. MORSE. I was about to say that in my part of the country we have some old western ghost towns. Not so long ago I went through the movie sets of Hollywood. I think it is quite appropriate to refer to them as the ghost town part of Hollywood.

Mr. GORE. This result has not occurred because movies are not being made. It is because the industry has moved abroad almost en masse as a result of our faulty tax laws. I propose to correct that.

Madam President, this issue is of far greater importance than the movie industry, important as that is, or than the recording industry, important as that is.

Last year, in the 12-month period, $4½ billion of American capital was invested abroad, including retained earnings, depreciation allowances, and new money, a large part in manufacturing facilities. Meanwhile, the Senate was considering and passing a bill to help economically distressed areas in the United States. West Virginia was cited as were other States. There are many depressed communities in my own State. That law has not yet been too successful in relieving the stringent economic conditions in many areas of the United States which are in economic distress.

What would the $4½ billion have accomplished if invested in the United States? The bill contains a provision known as the investment credit. It is estimated that the provision would provide $1,300 million per year in tax reduction to American business. Investment credit is advocated on the ground that the great incentive of $1,300 million in tax reduction would stimulate our economy, solve our unemployment problem, and generate economic activity that would swell the tax revenues of the Government. Compare that $1,300 million with the $4½ billion of American capital that was invested abroad last year.

The Senate by overwhelming vote has approved the investment credit. I ask it to vote to eliminate the tax incentive for investments abroad. As I have said many times, I know that there are other inducements that entice American capital into other counrties. The Congress has no jurisdiction over the actions and the policies of other countries. But we do have jurisdiction over the tax policies and the tax laws of the United States. I am asking that we repeal the provision that grants deferral of taxes on income and profits earned abroad until such income has been repatriated to the United States. I shall not now speak at great length.

I call to the attention of Senators the addresses which I have previously made on the subject. It is a subject to which I have been devoting concentrated study for almost 3 years. I belive I have learned a good deal about the problem. It is a serious one.

Some people think that the proposal of the President and the junior Senator from Tennessee would lead to economic isolation. Madam President, nothing could be further from the truth. The amendment is on all fours with the reciprocal trade program. The reciprocal trade program proposes to eliminate obstacles and barriers, insofar as practical, to the even flow of commerce between and among nations. The pending amendment which I have offered proposes to remove an incentive for a flow in one direction, a subsidy for the outflow of U.S. capital.

There are many communities in America that would be very happy if some foreign capital were invested in their home communities. It would provide jobs, profits, economic activity, the upbuilding of the State and the locality, and swell the revenues of the U.S. Treasury.

The same thing happens in foreign communities when American investment is made in manufacturing facilities abroad. The Ford Motor Co. has 130,000 employees in other countries. This will indicate the magnitude of the problem.

I hope that the Senate will ponder the issue. It goes to the very heart of the balance-of-payments problem, which is serious. It goes to the heart of the export of business, industry, and jobs. It goes to the heart of America's unemployment problem. I do not claim that the enactment of my amendment would provide a complete solution to any of these problems. But it would help all three. It is within the jurisdiction and the power of the United States to put into execution the provisions of the amendment, which I think would be very helpful.

Later I shall suggest the absence of a quorum. I shall ask for a yea-and-nay vote on the amendment, after debate has been concluded.

Mr. MANSFIELD. Madam President, would the Senator from Tennessee be agreeable to vote on the amendment at a time certain?

Mr. GORE. What time limit would the Senator suggest?

Mr. MANSFIELD. I would suggest that at 2 o'clock there be a quorum call, and immediately afterward, the vote.

Mr. GORE. Not later than 2. Would the Senator reserve for me the last 5 minutes in case I desire it?

Mr. MANSFIELD. If that would be agreeable, I should like to make a unanimous-consent request that there be a quorum call at 2 o'clock, and that immediately after the quorum call, the yeas and nays would be asked for, and that the——

Mr. KERR. Madam President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. KERR. And that the time thereafter be divided 5 minutes to a side, and the Senator from Tennessee may have the remaining time.

Mr. MANSFIELD. No, the last 5 minutes before the quorum call.

Mr. GORE. I like the suggestion of the senior Senator from Oklahoma better. After the quorum is present, perhaps the senior Senator from Oklahoma and I could exchange views that might be helpful.

Mr. MANSFIELD. Madam President, I ask unanimous consent that, at the conclusion of a quorum call to be instituted, there be 20 minutes allotted for debate on the amendment, 10 minutes to each side, the time to be equally divided between the Senator from Tennessee [Mr. GORE] and the Senator from Oklahoma [Mr. KERR].

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK in the chair). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in view of the unusual circumstances—and not to set a precedent—I ask unanimous consent that the yeas and nays may be ordered on the Gore amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I wish to state again to the Senate that this is not to be considered a precedent.

The PRESIDING OFFICER. The time for debate is under control, with 10 minutes allotted to each side.

Mr. KERR. Do the 10 minutes on each side prior to the vote start now?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERR. I yield myself 5 minutes.

I hope the amendment offered by the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. DOUGLAS] may be resoundingly defeated. I really wish that every Member of the Senate could hear the Senator from Tennessee relate in complete detail what is con-

tained in the amendment. Could he do so, no remarks would be necessary in opposition to it.

The amendment seeks to go completely contrary to the basic concept of the income tax law, which has long been the foundation pillar in our tax structure. Under our income tax law, income is taxed when received by the individual receiving it. The Senator from Tennessee made a statement that I was surprised to hear him make. He said every taxpayer of the United States must pay such taxes annually as earned as the Senator seeks to reach in this amendment.

If I know anything about the income tax law, and if I know anything about what is in the amendment of the Senator from Tennessee and the Senator from Illinois, that statement cannot be supported by the provisions of either. Certainly it cannot be supported by the provisions of the income tax law, because under the income tax law a stockholder pays taxes on his dividends when he receives them. He does not pay taxes as the corporation in which he owns stock earns money. He does not pay his taxes until that corporation has passed those earnings on to its stockholders.

The Senator from Tennessee is of the opinion—I know he is because he said so—his amendment would stop the exporting of jobs; that his amendment would stop investment by Americans in foreign manufacturing corporations.

In my judgment, the Senator from Tennessee could not be in greater error. In my considered judgment, all that his amendment would do would be to change the investment by Americans, so far as they sought and desired to make investments in corporations doing business abroad, from corporations controlled by American stockholders to corporations controlled by foreign stockholders.

Drastic as his amendment is, it does not reach earnings in foreign corporations which are controlled by foreign stockholders, even to the extent of the earnings of those corporations and the beneficial effect of those earnings on Americans owning stock in those corporations. His amendment would tax earnings in American-controlled foreign corporations. His amendment would export jobs with reference to the corporations doing the manufacturing and with reference to the export of American industry selling its output for export to foreign corporations.

Any Senator knows that if an American group controlled a foreign corporation, there would be far more likelihood that they would buy the output of American factories and American industry and export it from this country for use by that foreign-controlled corporation, than would be the case of foreign corporations controlled by foreign management and foreign owners.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Mr. KERR. I yield myself 3 additional minutes.

The tendency would be for those corporations to buy their industrial products abroad. So the Senator from Tennessee would defeat the very purpose which he states that he seeks to accomplish.

His amendment would make it impossible for American investors abroad to compete with foreign competitors who do not have to pay the taxes with reference to manufacturing efforts which would be collected under the amendment of the Senator from Tennessee and the Senator from Illinois.

This proposal was before the House Committee on Ways and Means, and was rejected by that committee. The amendment was before the Committee on Finance, and was rejected by it. The Senators now offering the amendment are in the same posture as an automobile dealer would be who came forth this fall, when all others were presenting their 1963 models, and offered a model T or a 1925 model, seeking to compete with other automobile manufacturers who were in the field with their 1963 models.

This amendment would destroy the opportunity for Americans to do business abroad, compete in foreign markets. be customers for the American industrial production, and be in the posture of bringing back their money to this country as it was paid out, as it was earned and declared as dividends.

The bill before the Senate cures the tax haven provisions which now exist and stops the tax haven abuses now in being, but does not destroy the opportunity for Americans owning manufacturing companies to compete in foreign countries with domestic industry in those foreign countries.

I submit that the amendment should be rejected.

Mr. GORE. Mr. President, the distinguished senior Senator from Oklahoma seems to be laboring under the impression that the defeat of an amendment by the Committee on Finance in some way condemns it to outer darkness. I respectfully submit that, in the opinion of some, rejection of an amendment by the Committee on Finance may sometimes add luster to it. The 1963 model public interest amendments to the pending bill are more likely to be identified with those defeated by the committee than with those adopted by the committee.

I did not say that the amendment which I, along with the senior Senator from Illinois [Mr. DOUGLAS], have offered, would stop the export of jobs. I did not say that the amendment would stop the outflow of U.S. capital. I did not say the amendment would cure our balance-of-payments problem. I did not say it would solve our unemployment problem. I said it would remove the tax subsidy, the tax incentive, for the export of capital, industry, and jobs; that it would help to solve our balance-of-payments problem.

Let us consider the balance-of-payments problem. The Treasury Department estimated that this amendment would help the balance-of-payments problem by about $400 million a year. That is a very sizable amount, indeed. I should like to read what the Secretary of the Treasury said about the pending bill and the subject matter of the pending amendment. His statement appears on page 455 of part 1 of the hearings:

Senator GORE. Unless the tax deferral problem is treated effectively, then we but piddle with the problem of preferential treatment of foreign income; would you agree with that?

Secretary DILLON. I think that is it. We do hit the tax haven thing fairly well here, but the basic problem is in deferral, and that has not been touched at all.

Mr. President, that problem is not touched at all in the committee bill. It is this lodestone, this magnet, that may be the decisive factor, next year and the year after and the year after that, in the establishment of factories abroad, bringing unemployment to our own people, worsening our balance-of-payments problem, and increasing the import competition that comes most severely from goods manufactured abroad by American capital and American know-how, imported into the United States, sold by well-established distribution chains, under well-established and well-known American labels and brand names.

Mr. President, how much time have I left?

The PRESIDING OFFICER. Five and one-half minutes.

Mr. GORE. Mr. President, I should like to cite some statistics from a study and survey reported in the U.S. News & World Report for January 1, 1962. The report concerned 75 firms with substantial foreign sales. In 1950 these firms manufactured abroad 36 percent of the products they sold abroad. The same U.S. corporations in 1955 manufactured abroad 56 percent of their foreign sales. In 1960 the figure had increased to 68 percent. The trend is continuing.

So we find that American manufacturing abroad is displacing exports from U.S. factories; and then there is the backwash, which we are now beginning to get in large volume—the importation into the United States of those products manufactured abroad by these subsidiaries of U.S. corporations. Today, Mr. President, if only a little over 1 percent of the $9 billion of sales by U.S.-owned European subsidiaries displaces sales from the United States or if 8 percent of the sales outside the country of production displace U.S. sales, the net export effect of U.S. subsidiary investment would be lost. As for creating domestic jobs, a dollar invested in Europe has the effect, through increased exports, of only 10 cents invested at home. But a dollar invested at home generates 40 cents worth of continuing production.

Foreign profits are becoming more important and inducing additional outflows of capital. The 1960 profits of foreign subsidiaries and branches of U.S.-controlled corporations totaled $3,500 million after foreign taxes.

Mr. President, I wish to point out how much this means, and what an enticement it is to the movement abroad of American industry. A study by the American Management Association, conducted in 1960, and reported in Business Week for December 31, 1960, shows that:

Because of tax differentials, the reinvestment of foreign earnings over a 3-year period

can provide roughly double the rate of profit accumulation for reinvestment that is possible under domestic tax schedules.

Think of that, Mr. President. I ask Senators who have engaged in our free-enterprise system to contemplate a situation in which in 3 years' time one can double his rate of profit accumulation for reinvestment abroad over what one could do here at home.

Again I ask, why do we provide a tax subsidy for this flight of capital? Why do we provide a tax incentive for the outflow of jobs and industry? What is the sense of it?

Mr. President, I am not proposing to stop the outflow of capital. Frankly, I feel that the time may be just around the corner when direct regulation may be considered by Congress. But I am not proposing that now. I am only proposing to strike down the tax incentive for such export of capital.

I know that it is argued that the United States will receive a return on foreign investments. Perhaps it will; but we do not know just when that will happen. It may be 12 to 16 years before current investments pay off. The United Kingdom insists on a 2-year payback, before authorities there will authorize investment capital outflow.

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mr. GORE. Mr. President, I see that my time has terminated.

Mr. MANSFIELD. Mr. President, how much time remains available to the Senator from Oklahoma?

The PRESIDING OFFICER. Two minutes.

Mr. MANSFIELD. I yield that time to the Senator from Tennessee.

Mr. GORE. I thank the distinguished majority leader.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 additional minutes.

Mr. GORE. Mr. President, I say now is the time to deal with this tax problem. The bill contains mild, timid, half-way effective treatment of the subject. I have offered an amendment which, in my opinion, will deal effectively with the subject; and in the opinion of the Secretary of the Treasury, the amendment will deal effectively with the subject.

I repeat that I have submitted an amendment which was drafted by the Treasury Department, was submitted to the Senate Finance Committee, was recommended by the Secretary of the Treasury, and was recommended by the President of the United States. It is true that the amendment does not bear the endorsement of the Senate Finance Committee; but I have every right to appeal that decision to the Senate.

The PRESIDING OFFICER. The additional time yielded to the Senator from Tennessee has expired.

Mr. GORE. Mr. President, I am ready for the vote to be taken.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Mississippi [Mr. EASTLAND], the Senator from Washington [Mr. MAGNUSON], and the Senator from Virginia [Mr. BYRD] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], the Senator from Wyoming [Mr. HICKEY], and the Senator from Missouri [Mr. SYMINGTON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. HICKEY] and the Senator from Mississippi [Mr. EASTLAND] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MORTON] and the Senator from New Hampshire [Mr. MURPHY] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Kentucky [Mr. MORTON] and the Senator from New Hampshire [Mr. MURPHY] would each vote "nay."

The result was announced—yeas 30, nays 58, as follows:

[No. 242 Leg.]

YEAS—30

Bartlett	Hart	Morse
Burdick	Hill	Moss
Byrd, W. Va.	Jackson	Muskie
Carroll	Kefauver	Neuberger
Church	Lausche	Pastore
Clark	Long, Hawaii	Proxmire
Douglas	Mansfield	Randolph
Ervin	McGee	Sparkman
Gore	McNamara	Yarborough
Gruening	Metcalf	Young, Ohio

NAYS—58

Aiken	Hartke	Pearson
Allott	Hayden	Pell
Beall	Hickenlooper	Prouty
Boggs	Holland	Robertson
Bush	Hruska	Russell
Butler	Humphrey	Saltonstall
Cannon	Javits	Scott
Capehart	Johnston	Smathers
Carlson	Jordan, N.C.	Smith, Mass.
Case	Jordan, Idaho	Smith, Maine
Chavez	Keating	Stennis
Cooper	Kerr	Talmadge
Cotton	Kuchel	Thurmond
Curtis	Long, Mo.	Tower
Dirksen	Long, La.	Wiley
Dodd	McCarthy	Williams, N.J.
Ellender	McClellan	Williams, Del.
Engle	Miller	Young, N. Dak.
Fong	Monroney	
Fulbright	Mundt	

NOT VOTING—12

Anderson	Byrd, Va.	Magnuson
Bennett	Eastland	Morton
Bible	Goldwater	Murphy
Bottum	Hickey	Symington

So Mr. GORE's amendment was rejected.

Mr. KERR. Mr. President, I move to reconsider the action whereby the amendment was rejected.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I offer my amendment 8–29–62—A, and I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD without being read.

The amendment is as follows:

On page 354, beginning with line 4, strike out all through line 19 on page 369 and insert the following:

"SEC. 19. WITHHOLDING OF INCOME TAX AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) IN GENERAL.—

"(1) AMENDMENT OF SUBTITLE C.—Subtitle C (relating to employment taxes and collection of income tax at source) is amended by redesignating chapter 25 as chapter 26 and by inserting after chapter 24 the following new chapter:

"'CHAPTER 25—COLLECTION OF INCOME TAX AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS

"'SUBCHAPTER A. Interest.
"'SUBCHAPTER B. Dividends.
"'SUBCHAPTER C. Patronage dividends.
"'SUBCHAPTER D. General provisions.

"'*Subchapter A—Interest*

"'Sec. 3451. Income tax collected at source on interest.
"'Sec. 3452. Interest defined.

"'SEC. 3451. INCOME TAX COLLECTED AT SOURCE ON INTEREST.

"'(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this chapter, every person who pays interest shall deduct and withhold on such interest a tax equal to 20 percent of the amount thereof.

"'(b) PAYEE UNKNOWN.—If the withholding agent is unable to determine the person to whom the interest is payable, the tax under this section shall be deducted and withheld at the time payment of the interest would be made if such person were known.

"'(c) CROSS REFERENCES.—

"'(1) For credit, against income tax of the recipient of the income, of amounts deducted and withheld under this section, see section 39.

"'(2) For special rules as to credit or refund of such amounts, see sections 3484, 3485, 3486, 3487, and 3505.

"'(3) For exemption from requirement of deducting and withholding on certain interest paid to certain persons, see section 3483.

"'SEC. 3452. INTEREST DEFINED.

"'(a) GENERAL RULE.—For purposes of this chapter, the term "interest" means—

"'(1) interest on evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a corporation with interest coupons or in registered form, and, to the extent provided in regulations prescribed by the Secretary or his delegate, interest on other evidences of indebtedness issued by a corporation of a type offered by corporations to the public;

"'(2) interest on amounts held by an insurance company under an agreement to pay interest thereon;

"'(3) interest on deposits with stockbrokers;

"'(4) interest on obligations of the United States; and

"'(5) in the case of a non-interest-bearing obligation of the United States—

"'(A) issued on a discount basis, and

"'(B) having a maturity date more than one year from the date of issue,

the amount by which the amount paid on surrender or redemption exceeds the issue price.

"'(b) EXCEPTIONS.—For purposes of this chapter, the term "interest" does not include—

"'(1) interest on obligations described in section 103(a) (1) or (3) (relating to interest on certain governmental obligations);

"'(2) any amount paid by—

"'(A) a foreign government or international organization,

"'(B) a foreign corporation not engaged in trade or business within the United States,

"'(C) a nonresident alien individual not engaged in trade or business within the United States, or

"'(D) a partnership not engaged in trade or business within the United States and composed in whole or in part of nonresident aliens;

"'(3) any amount paid by one corporation to another corporation, if both corporations are members of the same affiliated group which filed a consolidated return for the preceding taxable year of the affiliated group;

"'(4) interest subject to withholding under subchapter A of chapter 3 (sec. 1441 and following, relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such interest, or which would be so subject to withholding by such person, but for the fact that it is not treated as income from sources within the United States;

"'(5) any amount on which the withholding agent is required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions);

"'(6) any amount described in subsection (a)(5) paid to a State or a foreign government or international organization.

"'(c) EXEMPTION FOR UNITED STATES.—The Secretary may authorize exemption from the tax imposed by section 3451 for any amount paid by the United States or any wholly owned agency or instrumentality thereof to the United States or any wholly owned agency or instrumentality thereof if the Secretary determines that the imposition of the tax with respect to such amount will cause a burden or expense which can be avoided by granting the tax exemption.

"'Subchapter B—Dividends

"'Sec. 3461. Income tax collected at source on dividends.
"'Sec. 3462. Dividend defined.

"'SEC. 3461. INCOME TAX COLLECTED AT SOURCE ON DIVIDENDS.

"'(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this chapter, every person who pays a dividend shall deduct and withhold on such dividend a tax equal to 20 percent of the amount thereof.

"'(b) PAYEE UNKNOWN.—If the withholding agent is unable to determine the person to whom the dividend is payable, the tax under this section shall be deducted and withheld at the time payment of the dividend would be made if such person were known.

"'(c) AMOUNT OF DIVIDEND UNKNOWN.—If the withholding agent is unable to determine the portion of a distribution which is a dividend, the tax under this section shall be computed on the entire amount of the distribution.

"'(d) CROSS REFERENCES.—

"'(1) For credit, against income tax of the recipient of the income, of amounts deducted and withheld under this section, see section 39.

"'(2) For special rules as to credit or refund of such amounts, see sections 3484, 3485, 3486, 3487, and 3505.

"'(3) For exemption from requirement of deducting and withholding on dividends paid to certain individuals, see section 3483.

"'SEC. 3462. DIVIDEND DEFINED.

"'(a) GENERAL RULE.—For purposes of this chapter, the term "dividend" means—

"'(1) any distribution by a corporation which is a dividend (as defined in section 316); and

"'(2) any payment made by a stockholder to any person as a substitute for a dividend (as so defined).

"'(b) EXCEPTIONS.—For purposes of this chapter, the term "dividend" does not include—

"'(1) any amount paid in the stock, or rights to acquire the stock, of the distributing corporation if the distribution is not includible in gross income of the recipient under the provisions of section 305 (relating to distributions of stock and stock rights);

"'(2) any distribution to the extent that, under chapter 1—

"'(A) the amount thereof is treated by the recipient as an amount received on the sale or exchange of property, or

"'(B) gain or loss to the recipient is not recognized;

"'(3) any amount which is includible in gross income as a taxable dividend by reason of the provisions of section 302 (relating to redemptions of stock), 306 (relating to dispositions of certain stock), 356 (relating to receipt of additional consideration in connection with certain reorganizations), or 1081(e)(2) (relating to certain distributions pursuant to order of the Securities and Exchange Commission);

"'(4) any amount paid by one corporation to another corporation, if both corporations are members of the same affiliated group which filed a consolidated return for the preceding taxable year of the affiliated group;

"'(5) an amount which—

"'(A) is subject to withholding under subchapter A of chapter 3 (sec. 1441 and following, relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount, or

"'(B) would be subject to withholding under such subchapter A by the person paying such amount but for—

"'(i) the fact that it is attributable to income from sources outside the United States, or

"'(ii) the fact that the payor thereof is excepted from the application of section 1441(a) by the provisions of section 1441(c);

"'(6) any amount paid by a foreign corporation not engaged in trade or business within the United States;

"'(7) any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations);

"'(8) amounts paid pursuant to the terms of a lease entered into before January 1, 1954, if under such lease the shareholders of the lessor corporation are entitled to such amounts without deduction for any tax which any law of the United States might require to be deducted and withheld on the payment of dividends.

"Subchapter C—Patronage dividends

"'Sec. 3471. Income tax collected at source on patronage dividends.
"'Sec. 3472. Amounts subject to withholding.

"'SEC. 3471. INCOME TAX COLLECTED AT SOURCE ON PATRONAGE DIVIDENDS.

"'(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this chapter, every cooperative to which part I of subchapter T of chapter 1 applies which pays an amount described in section 3472 shall deduct and withhold on such amount a tax equal to 20 percent of such amount.

"'(b) PAYEE UNKNOWN.—If the withholding agent is unable to determine the person to whom the amount is payable, the tax under this section shall be deducted and withheld at the time payment of the amount would be made if such person were known.

"'(c) CROSS REFERENCES.—

"'(1) For credit, against income tax of the recipient of the income, of amounts deducted and withheld under this section, see section 39.

"'(2) For special rules as to credit or refund of such amounts, see sections 3484, 3485, 3486, 3487, and 3505.

"'(3) For exemption from requirement of deducting and withholding on amounts paid to certain individuals, see section 3483.

"'SEC. 3472. AMOUNTS SUBJECT TO WITHHOLDING.

"'(a) GENERAL RULE.—Except as otherwise provided in this section or section 3483, the amounts subject to deduction and withholding under section 3471 are—

"'(1) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notices of allocation (as defined in section 1388(c)), or other property (except nonqualified written notices of allocation as defined in section 1388(d)), and

"'(2) any amount, described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions), which is paid in money, qualified written notices of allocation, or other property (except nonqualified written notices of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax).

"'(b) EXCEPTIONS.—The provisions of section 3471 shall not apply to—

"'(1) any amount paid by one corporation to another corporation, if both corporations are members of the same affiliated group which filed a consolidated return for the preceding taxable year of the affiliated group;

"'(2) an amount which—

"'(A) is subject to withholding under subchapter A of chapter 3 (sec. 1441 and following, relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount, or

"'(B) would be subject to withholding under such subchapter A by the person paying such amount but for the fact that it is attributable to income from sources outside the United States; and

"'(3) any amount paid by a foreign corporation not engaged in trade or business within the United States.

"'(c) EXEMPTION FOR CERTAIN CONSUMER COOPERATIVES.—A cooperative which the Secretary or his delegate determines is primarily engaged in selling at retail goods or services of a type that are generally for personal, living, or family use shall, upon application to the Secretary or his delegate, be granted exemption from the tax imposed by section 3471. Application for exemption under this subsection shall be made in accordance with regulations prescribed by the Secretary or his delegate.

"'(d) DETERMINATION OF AMOUNT PAID.—For purposes of this subchapter, in determining amounts paid—

"'(1) property (other than a written notice of allocation) shall be taken into account as its fair market value, and

"'(2) a qualified written notice of allocation shall be taken into account as its stated dollar amount.

"'Subchapter D—General Provisions

"'Sec. 3481. Liability for return and payment of withheld tax.
"'Sec. 3482. Return and payment by United States.
"'Sec. 3483. Exemption certificates.
"'Sec. 3484. Refund of tax to individuals.
"'Sec. 3485. Refund of tax to States, tax-exempt organizations, etc.
"'Sec. 3486. Refund of tax to corporation.
"'Sec. 3487. Credit for tax withheld on corporation.
"'Sec. 3488. Obligation sold between interest-payment dates.
"'Sec. 3489. Presumption.
"'Sec. 3490. Definitions.

"'SEC. 3481. LIABILITY FOR RETURN AND PAYMENT OF WITHHELD TAX.

"'(a) GENERAL RULE.—Every person required to deduct and withhold any tax under this chapter shall, on or before the last day of the first month following the close of each quarter of his taxable year, make a return of the tax required to be deducted and withheld during such quarter and pay the tax to the officer designated in section 6151. The withholding agent shall be liable for the payment of the taxes required to be deducted and withheld under this chapter, and shall not otherwise be liable to any person for the amount of any such payment.

"'(b) TAX PAID BY RECIPIENT.—If the withholding agent, in violation of the provisions of this chapter, fails to deduct and withhold any tax under this chapter, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the withholding agent; but this subsection shall in no case relieve the withholding agent from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

"'(c) CROSS REFERENCE.—

"'For limitation on the use of Government depositaries in the collection of taxes deducted and withheld under this chapter, see the last sentence of section 6302(c).

"'SEC. 3482. RETURN AND PAYMENT BY UNITED STATES.

"'If the withholding agent is the United States the return of the tax deducted and withheld under this chapter may be made by an officer or employee of the United States having control of the payment of the amount subject to withholding, or appropriately designated for that purpose.

"'SEC. 3483. EXEMPTION CERTIFICATES.

"'(a) GENERAL RULES.—

"'(1) INDIVIDUALS UNDER AGE 18.—Any individual may file with any withholding agent an exemption certificate on which he certifies the date of his birth. If such a certificate is filed, all amounts payable by such withholding agent to such individual, on and after the effective date for such certificate and before the beginning of the calendar year during which the certificate indicates that he will attain age 18, shall be exempt from the requirement of deducting and withholding under this chapter.

"'(2) INDIVIDUALS OVER AGE 17.—Any individual may file with any withholding agent an exemption certificate on which he certifies—

"'(A) that he will have attained age 18 before the close of the calendar year for which such certificate is filed, and

"'(B) that he reasonably believes that he will not (after the application of the credits against tax provided by part IV of subchapter A of chapter 1, other than the credits under sections 31 and 39) be liable for the payment of any tax under chapter 1 for each of his taxable years any portion of which is included in the period for which such certificate will be in effect.

If such a certificate is filed, all amounts payable by such withholding agent to such individual during the period such certificate is in effect shall be exempt from the requirement of deducting and withholding under this chapter. Except as may otherwise be provided in regulations prescribed by the Secretary or his delegate, an exemption certificate filed by an individual described in this paragraph shall remain in effect only for the period beginning on the effective date of such certificate and ending at the close of the calendar year in which such period begins.

"'(3) TAX-EXEMPT ORGANIZATIONS.—

"'(A) Any organization (other than a cooperative described in section 521) which is exempt from the tax imposed by chapter 1 may file with any withholding agent who pays amounts described in section 3452(a)(5) an exemption certificate on which it certifies that it is such an organization. If such a certificate is filed, all amounts described in section 3452(a)(5) payable by such withholding agent to such organization on and after the effective date for such certificate shall (except as provided in subparagraph (B)) be exempt from the requirement of deducting and withholding under this chapter.

"'(B) An exemption certificate filed by an organization under subparagraph (A) shall cease to be effective on the thirtieth day after the day on which the withholding agent, with whom such certificate was filed, is notified by either the organization or the Secretary or his delegate that the organization is no longer exempt from the tax imposed by chapter 1. If an organization ceases to be exempt from such tax, it shall, within the time specified in regulations prescribed by the Secretary or his delegate, so notify each withholding agent with whom it has an exemption certificate in effect.

"'(b) EXCEPTIONS AND SPECIAL RULES.—

"'(1) CERTAIN EXCEPTIONS.—This section shall not apply to any amount—

"'(A) described in section 3452(a)(1) (relating to interest on evidences of indebtedness), or

"'(B) described in section 3452(a)(4) (relating to interest on obligations of the United States).

"'(2) SERIES E BONDS, ETC.—In the case of transactions involving the redemption of one or more obligations described in section 3452(a)(5) (relating to certain obligations of the United States issued on a discount basis), a separate certificate shall be filed with respect to each such transaction.

"'(3) NOMINEES, CUSTODIANS, AND JOINT OWNERSHIPS.—Under regulations prescribed by the Secretary or his delegate, the exemption provided by subsection (a) may be extended, in a manner consistent with the other provisions of this section, to—

"'(A) amounts (other than amounts described in section 3462(a), relating to dividends) paid through nominees;

"'(B) amounts paid to custodians; and

"'(C) amounts paid jointly to 2 or more individuals;

"'(4) EFFECTIVE DATE OF CERTIFICATE.—Any exemption certificate under this section shall take effect on such day as is specified in accordance with regulations prescribed by the Secretary or his delegate.

"'(5) FORM AND CONTENTS OF CERTIFICATE AND NOTICE.—Any exemption certificate under this section, and any notice under subsection (a)(3)(B), shall be in such form and contain such information as the Secretary or his delegate may by regulations prescribe.

"'(c) CROSS REFERENCE.—

"'For penalty for filing fraudulent certificate, or for failing to provide notice, under this section, see section 7205.

"'SEC. 3484. REFUND OF TAX TO INDIVIDUALS.

"'(a) GENERAL RULE.—Except as provided in subsection (e), the tax deducted and withheld under this chapter with respect to amounts received by an individual during any quarter (other than the fourth quarter) of his taxable year (together with any tax so deducted and withheld on amounts which were received by him during any prior quarter of such year and with respect to which no allowable claim for refund has been filed under this section) shall, to the extent such tax does not exceed his refund allowance as of the time the claim for refund is filed, be promptly refunded to him as an overpayment of tax. A refund of tax shall be made under this section only if the amount claimed and allowable equals or exceeds $10.

"'(b) REFUND ALLOWANCE.—For purposes of this section, the refund allowance of an individual as of the time the claim for refund is filed is an amount equal to the excess, if any, of—

"'(1) an amount equal to 22 percent of—

"'(A) the total of the deductions which, on the basis of facts existing at the time the claim for refund is filed, such individual would be allowed for the taxable year under section 151 (relating to deductions for personal exemptions), plus

"'(B) in the case of an individual who, at the time the claim for refund is filed, reasonably expects that he will be allowed a credit under section 37 (relating to retirement income) for the taxable year, the amount which, at such time, such individual reasonably expects to be the amount of his retirement income (as defined in section 37(c) and as limited by section 37(d)) for the taxable year, less

"'(C) the amounts (other than amounts on which tax is required to be deducted and withheld under this chapter) which, at the time the claim for refund is filed, such individual reasonably expects to be includible in his gross income for the taxable year; over

"'(2) the amounts of tax with respect to which an allowable claim for refund has been previously filed under this section during the taxable year.

For purposes of paragraph (1)(C), an individual who files more than one claim for refund under this section for any taxable year may use the estimate for the preceding claim for such year unless, at the time he files the claim, he reasonably expects the amounts referred to in paragraph (1)(C) to exceed such prior estimate by more than $100.

"'(c) MARRIED INDIVIDUALS.—For purposes of subsections (a), (b), and (d), married individuals shall be treated as an individual if, at the time the claim for refund is filed, they reasonably expect that they will file a joint return for the taxable year in which such claim is filed.

"'(d) TIME FOR FILING CLAIM.—Not more than one claim may be filed under this section by any individual during any quarter of his taxable year. A refund of tax deducted and withheld on amounts received during a taxable year shall be made under this section only if claim therefor is filed on or before the last day of such taxable year.

"'(e) INDIVIDUALS NOT ELIGIBLE FOR REFUND.—No claim for refund may be filed under this section by—

"'(1) any individual (other than an individual referred to in paragraph (2) or (3)) unless, at the time the claim for refund is filed, he reasonably expects that his gross income for the taxable year will not exceed $5,000;

"'(2) any married individual unless, at the time the claim for refund is filed, he reasonably expects that the aggregate gross income of such individual and his spouse for the taxable year will not exceed $10,000;

"'(3) a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b)) unless, at the time the claim for refund is filed, he reasonably expects that his gross income for the taxable year will not exceed $10,000; or

"'(4) any child, unless, at the time the claim for refund is filed, he reasonably expects that no deduction would be allowed for him under section 151(e)(1)(B) for the taxable year of his parent (or parents) beginning with or within the calendar year in which the claim for refund is filed.

"'(f) CROSS REFERENCE.—

"'For credit or refund of amounts not refunded under this section, see section 39.

"'SEC. 3485. REFUND OF TAX TO STATES, TAX-EXEMPT ORGANIZATIONS, ETC.

"'(a) GENERAL RULE.—In the case of a person which is—

"'(1) the United States or a State,

"'(2) an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by chapter 1,

"'(3) a foreign government or international organization, or

"'(4) a foreign central bank of issue,

if the tax deducted and withheld under this chapter with respect to amounts received by such person during any calendar quarter exceeds the credit, if any, claimed by and allowable to such person under section 3505 (relating to credit against employment taxes) for such quarter, the excess (together with any such excess for any prior quarter of the same calendar year with respect to which no refund has been claimed and allowed under this section) shall be promptly refunded or credited to such person as an overpayment of tax. In the case of a person to which paragraph (4) applies, the amount which may be refunded or credited against this section shall not exceed the amount of tax deducted and withheld under section 3451 on interest paid on obligations of the United States which are not held for, or used in connection with, the conduct of commercial banking functions or other commercial activities.

"'(b) CROSS REFERENCES.—

"'(1) For period of limitation for filing claim under this section, see section 6511.

"'(2) For presumed date of payment for purposes of (A) period of limitation, see section 6513(b), and (B) allowance of interest on overpayments, see section 6611(d).

"'SEC. 3486. REFUND OF TAX TO CORPORATION.

"'(a) GENERAL RULE.—If the tax deducted and withheld under this chapter with respect to amounts received by a corporation (other than a corporation described in section 3485(a)) during any quarter (other than the fourth quarter) of its taxable year exceeds the amount claimed by and allowable to such corporation under section 3487 as a credit against its liability for tax under this chapter for such quarter, the excess (together with any such excess for any prior quarter of the same year with respect to which no refund has been claimed and allowed under this section) shall be promptly refunded or credited to such corporation as an overpayment of tax. A refund of tax shall be made under this section only if claim therefor is filed after the close of the period covered by the claim and on or before the last day of the taxable year.

"'(b) CROSS REFERENCE.—

"'For credit or refund of amounts not refunded under this section, see section 39.

"'SEC. 3487. CREDIT FOR TAX WITHHELD ON CORPORATION.

"'(a) GENERAL RULE.—Any tax deducted and withheld under this chapter with respect to amounts received by a corporation (other than a corporation described in section 3485(a)) during a taxable year shall, to the extent not claimed and allowable as a credit or refund to the corporation under section 3486, be allowed, under regulations prescribed by the Secretary or his delegate, as a credit against (but not in excess of) the tax for which such corporation is liable under this chapter in respect of amounts paid by it during such year.

"'(b) DIVIDENDS AND PATRONAGE DIVIDENDS PAID DURING TAXABLE YEAR.—For purposes of determining the credit allowable to any corporation under subsection (a), a dividend, or amount subject to withholding under section 3471, paid by it may be considered as having been paid during the taxable year—

"'(1) in the case of a personal holding company, if treated as paid during such taxable year under section 563(b),

"'(2) in the case of a regulated investment company, if treated as paid during such taxable year under section 855(a),

"'(3) in the case of a real estate investment trust, if treated as paid during such taxable year under section 858(a), or

"'(4) in the case of a cooperative described in section 1381(a), if paid during the payment period (as defined in section 1382(d)) for such taxable year.

"'(c) SPECIAL RULE FOR CORPORATIONS WHICH ARE MEMBERS OF AN AFFILIATED GROUP.—To the extent and subject to such conditions as may be provided in regulations prescribed by the Secretary or his delegate, the tax deducted and withheld under this chapter with respect to amounts received by a corporation which is a member of an affiliated group which filed a consolidated return for the preceding taxable year of the affiliated group may, for purposes of this section, be treated as tax deducted and withheld under this chapter from any corporation which is a member of the same affiliated group.

"'SEC. 3488. OBLIGATION SOLD BETWEEN INTEREST-PAYMENT DATES.

"'For purposes of any credit or refund provided in section 3484, 3485, 3486, or 3487, in the case of an obligation which is sold or exchanged between interest-payment dates the amount required to be deducted and withheld on the interest at the end of the interest-payment period shall be treated in the manner provided in section 39(c).

"'SEC. 3489. PRESUMPTION.

"'For purposes of establishing that any person is entitled to a credit or refund of any tax required to be deducted and withheld under this chapter with respect to amounts received by such person, the correct amount of such tax shall, in the absence of evidence to the contrary, be presumed to have been so deducted and withheld.

"'SEC. 3490. DEFINITIONS.

"'For purposes of this chapter—

"'(1) PERSON.—The term "person" includes the United States, a State, a foreign government, and an international organization.

"'(2) STATE.—The term "State" includes a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"'(3) FOREIGN GOVERNMENT.—The term "foreign government" includes a foreign government, a political subdivision of a foreign government, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"'(4) NONRESIDENT ALIEN.—The term "nonresident alien individual" includes an alien resident of Puerto Rico.'

"(2) CLERICAL AMENDMENTS, ETC.—

"(A) The heading for subtitle C is amended to read as follows:

"'SUBTITLE C— EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE'

"(B) The table of chapters for subtitle C is amended by striking out the last line and inserting in lieu thereof the following:

"'CHAPTER 25. Collection of income tax at source on interest, dividends, and patronage dividends.

"'CHAPTER 26. General provisions relating to employment taxes and collection of income taxes at source.'

"(C) The table of subtitles under the heading 'Internal Revenue Title' at the beginning of the Internal Revenue Code of 1954 is amended by striking out the third line and inserting in lieu thereof the following:

"'Subtitle C. Employment taxes and collection of income tax at source.'

"(D) The heading for chapter 26 (as redesignated by paragraph (1) of this subsection) is amended to read as follows:

"'CHAPTER 26—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES AND COLLECTION OF INCOME TAXES AT SOURCE'

"(b) CREDITS AGAINST INCOME TAX FOR TAX WITHHELD.—

"(1) ALLOWANCE OF CREDIT.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting after section 38 (added by section 2 of this Act) the following new section:

"'SEC. 39. TAX WITHHELD ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"'(a) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate, the tax deducted and withheld under chapter 25 (relating to withholding at source on interest, dividends, and patronage dividends) shall be allowed, to the recipient of the amount with respect to which such tax was deducted and withheld, as a credit aginst the tax imposed by this subtitle for the taxable year in which such amount is received.

"'(b) SPECIAL RULE FOR DEPENDENT CHILDREN.—If—

"'(1) the taxpayer for his taxable year is entitled to a deduction under section 151(e)(1)(B) with respect to a child, and

"'(2) such child had, for the calendar year ending with or within the taxpayer's taxable year—

"'(A) gross income of less than $600, and

"'(B) no wages (as defined in section 3401(a)) with respect to which withholding was required under chapter 24,

then, under regulations prescribed by the Secretary or his delegate, the taxpayer shall be entitled to the credit provided by subsection (a) with respect to amounts received by such child during such calendar year, but only if such child has not filed any claim for credit or refund of any portion of the tax deducted and withheld with respect to such amounts.

"'(c) APPORTIONMENT OF CREDIT.—For purposes of subsection (a), if an obligation is sold or exchanged between interest-payment dates—

"'(1) so much of the amount required to be deducted and withheld on the interest at the end of the interest-payment period as is properly allocable to that part of such period which ends on the date of the sale or exchange shall be treated as an amount deducted and withheld from the transferor on the date of the sale or exchange, and

"'(2) so much of such amount as is properly allocable to that part of such period which begins on the day after the date of the sale or exchange shall be treated as an amount deducted and withheld from the transferee.

"'(d) LIMITATIONS.—The credit provided by subsection (a) shall not be allowed—

"'(1) REFUND TO INDIVIDUALS.—To any individual with respect to any amount of tax allowed him as a refund under section 3484.

"'(2) CREDIT OR REFUND TO STATES, ETC.—To any person with respect to any amount of tax allowable to such person as a credit or refund under section 3485 or as a credit under section 3505.

"'(3) CREDIT OR REFUND TO CORPORATIONS.—To any person with respect to any amount of tax allowed such person as a credit or refund under section 3486 or as a credit under section 3487.

"'(4) CERTAIN DEPENDENT CHILDREN.—To any person with respect to any amount of tax which has been claimed and is allowable as a credit to such person's parent by reason of the provisions of subsection (b).

"'(5) NOMINEES, ETC.—To any person with respect to any amount of tax allowed such person as a credit under section 1444(b).'

"(2) COMMON TRUST FUNDS.—Section 584 (c) (relating to the income of participants in the fund) is amended by adding at the end thereof the following new paragraph:

"'(3) TAX WITHHELD AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—In any case where tax under chapter 25 is deducted and withheld on any amounts received by a common trust fund, for purposes of any credit or refund provided in section 39 or 3505, or chapter 25, such tax shall, in accordance with regulations prescribed by the Secretary or his delegate, be considered as having been deducted and withheld proportionately from each participant.'

"(3) ESTATES AND TRUSTS.—Section 642(a) (relating to special rules for credits and deductions in the case of estates and trusts) is amended by adding at the end thereof the following new paragraph:

"'(4) TAX WITHHELD AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—In any case where tax under chapter 25 is deducted and withheld on any amounts received by an estate or trust, for purposes of any credit or refund provided in section 39 or 3505, or chapter 25, such tax shall, in accordance with regulations prescribed by the Secretary or his delegate, be considered as having been deducted and withheld from each beneficiary in an amount which, when added to the amounts paid, credited, or required to be distributed to him, equals the amounts which would have been paid, credited, or required to be distributed to him in the absence of chapter 25. Any tax under chapter 25 which is deducted and withheld on amounts received by the estate or trust shall be considered as withheld from such estate or trust to the extent it is not considered as withheld from a beneficiary under the provisions of the preceding sentence.'

"(4) TECHNICAL AMENDMENTS.—

"(A) Section 164(b)(1) (relating to deduction denied in the case of certain taxes) is amended by—

"(i) striking out the word 'and' at the end of subpargaraph (B);

"(ii) striking out the comma at the end of subparagraph (C) and inserting '; and'; and

"(iii) adding after subparagraph (C) the following new subparagraph:

"'(D) the tax withheld at source under chapter 25 (relating to collection of income tax at source on interest, dividends, and patronage dividends),'.

"(B) Section 874(a) (relating to allowance of deductions and credits to nonresident alien individuals) is amended by striking '31 and 32' and inserting in lieu thereof '31, 32, and 39'.

"(C) Section 1314(e) (relating to inapplicability of part II of subchapter Q of chapter 1 of subtitle A to taxes imposed by subtitle C) is amended by striking 'employment taxes' and inserting in lieu thereof 'employment taxes and collection of income tax at source'.

"(D) Section 6211(b)(1) (relating to rules applicable in determination of deficiency) is amended by striking '31' and inserting in lieu thereof '31 or 39'.

"(E) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out

"'Sec. 38. Overpayments of tax.'

and inserting in lieu thereof

"'Sec. 38. Investment in certain depreciable property.

"'Sec. 39. Tax withheld on interest, dividends, and patronage dividends.

"'Sec. 40. Overpayments of tax.'

"(c) INTEREST AND DIVIDEND PAID TO NONRESIDENT ALIENS, ETC.—

"(1) WITHHOLDING RATE.—

"(A) Section 1441 (relating to withholding of tax on nonresident aliens) is amended by adding at the end thereof the following new subsection:

"'(e) TREATIES.—In the case of amounts described in section 3452(a) (relating to interest), section 3462(a) (relating to dividends), and section 3472(a) (relating to patronage dividends), the tax required to be deducted and withheld under subsection (a) shall not by reason of the provisions of any treaty be less than 20 percent of such amounts.'

"(B) Section 1442 (relating to withholding of tax on foreign corporations) is amended by adding at the end thereof the following new sentence: 'In the case of amounts described in section 3452(a) (relating to interest), section 3462(a) (relating to dividends), and section 3472(a) (relating to patronage dividends), the tax required to be deducted and withheld under the preceding sentence shall not by reason of the provisions of any treaty be less than 20 percent of such amounts.'

"(2) NOMINEES, ETC.—Subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"'SEC. 1444. INTEREST AND DIVIDENDS PAID TO NOMINEES; CREDITS TO WITHHOLDING AGENTS.

"'(a) WITHHOLDING OF TAX BY PAYOR.—Under regulations prescribed by the Secretary or his delegate, every person who pays amounts subject to withholding under chapter 25 and who has been notified by a payee thereof that the payee is a nominee required to deduct and withhold on such amounts under section 1441 or 1442 shall, in lieu of the nominee, deduct and withhold from such amounts paid to the nominee the tax required to be deducted and withheld under section 1441 or 1442, in the same manner as if such amounts were paid by such person directly to the beneficial owner thereof.

"'(b) CREDITS TO WITHHOLDING AGENTS.—In the case of any person who is required to deduct and withhold tax under section 1441 or 1442 in respect of amounts received by him during any calendar year on which tax was deducted and withheld (or, in the case of amounts described in section 39(c)(1), was treated as deducted and withheld) under chapter 25, the taxes so deducted and withheld (or treated as deducted and withheld) under chapter 25 shall, under regulations prescribed by the Secretary or his delegate, be allowed as a credit against (but not in excess of) his liability for the year in respect of the taxes imposed by sections 1441 and 1442.'

"(3) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following:

"'Sec. 1444. Interest and dividends paid to nominees; credits to withholding agents.'

"(d) CREDIT FOR STATES AND TAX-EXEMPT ORGANIZATIONS.—

"(1) ALLOWANCE OF CREDIT.—Chapter 26 (general provisions relating to employment taxes and income tax withheld at source) is amended by adding at the end thereof the following new section:

"'SEC. 3505. SPECIAL CREDIT IN CASE OF STATES OR TAX-EXEMPT ORGANIZATIONS.

"'(a) GENERAL RULE.—In the case of a person which is a State (as defined in section 3490(2)) or which is an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by chapter 1, the tax deducted and withheld under chapter 25 with respect to amounts received by it during any calendar quarter shall be allowed, under regulations prescribed by the Secretary or his delegate, as a credit against (but not in excess of) such person's liability (after the adjustments, if any, provided for in sections 6205(a) and 6413(a) for such quarter in respect of the taxes imposed by chapter 21 (Federal Insurance Contributions Act) and by chapter 24 (collection of income tax at source on wages). Such credit shall be allowed only if claim therefor is made, in accordance with such regulations, at the time of the filing of the return with respect to the taxes under chapter 21 and chapter 24 for such quarter.

"'(b) OBLIGATIONS SOLD BETWEEN INTEREST-PAYMENT DATES.—For purposes of this section, in the case of an obligation which is sold or exchanged between interest-payment dates, the amount required to be deducted and withheld on the interest at the end of the interest-payment period shall be treated in the manner provided in section 39(c).

"'(c) CROSS REFERENCE.—

"'For refund under chapter 25, see section 3485.'

"(2) TECHNICAL AMENDMENTS.—

"(A) Section 3502 (relating to nondeductibility of taxes in computing taxable income) is amended by adding at the end thereof the following new subsection:

"'(c) The tax deducted and withheld under chapter 25 shall not be allowed as a deduction in computing taxable income under subtitle A either to the person deducting and withholding the tax or to the recipient of the amounts subject to withholding.'

"(B) The table of sections for chapter 26 is amended by adding at the end thereof the following:

"'Sec. 3505. Special credit in case of States or tax-exempt organizations.'

"(e) OTHER TECHNICAL AMENDMENTS.—

"(1) DECLARATION OF ESTIMATED INCOME TAX BY INDIVIDUALS.—Section 6015(a) (relating to declaration of estimated income tax by individuals) is amended by striking out the period at the end of paragraph (2) and inserting in lieu thereof 'and amounts on which tax is required to be deducted and withheld under chapter 25.'.

"(2) ADJUSTMENT OF TAX; UNDERPAYMENT.—

"(A) Subsection (a)(1) of section 6205 (relating to special rules relating to assessment of employment taxes) is amended by striking out 'or 3402 is paid with respect to any payment of wages or compensation,' and inserting in lieu thereof '3402, 3451, 3461, or 3471 is paid with respect to any payment of remuneration, interest, dividends, or other amounts,'.

"(B) Subsection (b) of such section is amended by striking out 'or 3402 is paid or deducted with respect to any payment of wages or compensation' and inserting in lieu thereof '3402, 3451, 3461, or 3471 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amounts'.

"(C) The heading for such section is amended to read as follows:

"'SEC. 6205. SPECIAL RULES APPLICABLE TO CERTAIN TAXES UNDER SUBTITLE C.'

"(D) The table of sections for subchapter A of chapter 63 is amended by striking out

"'Sec. 6205. Special rules applicable to certain employment taxes.'

and inserting in lieu thereof

"'Sec. 6205. Special rules applicable to certain taxes under subtitle C.'

"(3) USE OF GOVERNMENT DEPOSITARIES.—Section 6302(c) (relating to use of Government depositaries) is amended by adding at the end thereof the following new sentence: 'The Secretary or his delegate shall not require the deposit under this subsection of any tax deducted and withheld under chapter

25 (relating to collection of income tax at source on interest, dividends, and patronage dividends) in a Government depositary before the last day prescribed in section 3481 for payment of the tax.'

"(4) EXCESSIVE WITHHOLDING.—Section 6401(b) (relating to excessive withholding) is amended to read as follows:

"'(b) EXCESSIVE WITHHOLDING.—If the amounts allowable as credits under section 31 (relating to credit for tax withheld at source under chapter 24) and section 39 (relating to credit for tax withheld on interest, dividends, and patronage dividends under chapter 25) exceed the taxes imposed by chapter 1 against which such credits are allowable, the amount of such excess shall be considered an overpayment.'

"(5) ADJUSTMENT OF TAX; OVERPAYMENT.—

"(A) Subsection (a)(1) of section 6413 (relating to special credit and refund rules applicable to certain employment taxes) is amended by striking out 'or 3402 is paid with respect to any payment of remuneration,' and inserting in lieu thereof '3402, 3451, 3461, or 3471 is paid with respect to any payment of remuneration, interest, dividends, or other amounts,'.

"(B) Subsection (b) of such section is amended—

"(i) By striking from the heading of such subsection the words 'OF CERTAIN EMPLOYMENT TAXES; and

"(ii) By striking out 'or 3402 is paid or deducted with respect to any payment of remuneration' and inserting in lieu thereof '3402, 3451, 3461, or 3471 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amounts'.

"(C) The following new subsection is added at the end of such section:

"'(e) CROSS REFERENCES.—

"'For special refunds or credits of tax withheld on interest, dividends, or patronage dividends under chapter 25, see sections 3484, 3485, 3486, 3487, and 3505.'

"(D) The heading for such section is amended to read as follows:

"'SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN TAXES UNDER SUBTITLE C.'

"(E) The table of sections for subchapter B of chapter 65 is amended by striking out

"'Sec. 6413. Special rules applicable to certain employment taxes.'

and inserting in lieu thereof

"'Sec. 6413. Special rules applicable to certain taxes under subtitle C.'

"(6) OVERPAYMENT NOT DEDUCTED AND WITHHELD.—Section 6414 (relating to income tax withheld) is amended by striking 'chapter 3' and inserting in lieu thereof 'chapter 3 or 25'.

"(7) TIME TAX CONSIDERED PAID.—Section 6513(b) (relating to time tax considered paid) is amended by adding at the end thereof the following new sentences: 'For purposes of section 6511 or 6512, any tax deducted and withheld under chapter 25 which is allowable under section 39, 3484, 3485, or 3486 as a credit against tax or as a refund of an overpayment (or an amount treated as an overpayment) of the tax imposed by chapter 1 shall, in respect of the person entitled to such credit or refund, be deemed to have been paid by him on the last day prescribed for filing the return (determined without regard to any extension of time for filing such return) of tax under chapter 1 for his taxable year in which the amount subject to withholding under chapter 25 is received by him or, if such person has no taxable year, on the fifteenth day of the fifth calendar month following the close of such person's annual accounting period within which such amount is received by him. In the case of an amount allowable as a credit under section 39(b) to the parent of a child, such amount shall, if claimed by the parent, be deemed to have been paid on the last day for filing his return (determined without regard to any extension of time for filing such return) for his taxable year which begins with or within the calendar year in which amounts subject to withholding under chapter 25 were received by the child.'

"(8) FAILURE TO PAY ESTIMATED INCOME TAX.—

"(A) INDIVIDUALS.—Subsections (e) and (f) of section 6654 (relating to failure by individuals to pay estimated income tax) are amended to read as follows:

"'(e) APPLICATION OF SECTION IN CASE OF WITHHELD TAXES.—For purposes of applying this section—

"'(1) the estimated tax shall be computed without any reduction for amounts which the individual estimates as his credits under section 31 (relating to tax withheld at source on wages) and section 39 (relating to tax withheld on interest, dividends, and patronage dividends); and

"'(2) the amount of the credits allowed under sections 31 and 39 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined under section 6153) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld (or in the case of amounts described in section 39(c)(1), were treated as withheld), in which case the amounts so withheld shall be deemed payments of estimated tax on such dates.

"'(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term "tax" means the tax imposed by chapter 1 reduced by the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credits against tax provided by section 31 (relating to tax withheld on wages) and section 39 (relating to tax withheld on interest, dividends, and patronage dividends).'

"(B) CORPORATIONS.—Section 6655 (relating to failure by corporations to pay estimated income tax) is amended—

"(i) by striking out the period at the end of subsection (e)(2)(B) and inserting in lieu thereof ', other than the credit against tax provided by section 39 (relating to tax withheld on interest, dividends, and patronage dividends).'; and

"(ii) by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"'(f) APPLICATION OF SECTION IN CASE OF TAX WITHHELD ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—For purposes of applying this section—

"'(1) the estimated tax shall be computed without any reduction for the amount which the corporation estimates as its credit under section 39 (relating to tax withheld on interest, dividends, and patronage dividends); and

"'(2) the amount of the credit allowed under section 39 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined under section 6154) for such taxable year, unless the corporation establishes the dates on which all amounts were actually withheld (or in the case of amounts described in section 39(c)(1), were treated as withheld), in which case the amounts so withheld shall be deemed payments of estimated tax on such dates.'

"(9) PENALTY FOR FILING FRAUDULENT EXEMPTION CERTIFICATE.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended by adding the following new sentence at the end thereof: 'Any person who willfully files an exemption certificate with any withholding agent under section 3483, on which the certification is known by him to be fraudulent or to be false as to any material matter, or who is required to file a notice under subsection (a)(3)(B) of section 3483 and who willfully fails to provide such notice in the manner, at the time, and showing the information required under such subsection (a)(3)(B), or the regulations prescribed thereunder, shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than $500, or imprisoned not more than 1 year, or both.'

"(10) OFFENSES WITH RESPECT TO COLLECTED TAXES.—The last sentence of section 7215(b) (relating to offenses with respect to collected taxes) is amended to read as follows: 'For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages or amounts subject to withholding under chapter 25 (whether or not created by the payment of such wages or amounts) shall not be considered to be circumstances beyond the control of a person.'

"(11) DEFINITION OF WITHHOLDING AGENT.—Section 7701(a)(16) (defining the term 'withholding agent') is amended by striking out 'or 1461' and inserting in lieu thereof '1461, 3451, 3461, or 3471'.

"(f) EFFECTIVE DATES.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), the provisions of this section shall apply in the case of interest and dividends paid on or after January 1, 1963.

"(2) SPECIAL RULES.—

"(A) In the case of transferable obligations described in paragraph (1) or (6) of section 3452(a) of the Internal Revenue Code of 1954, the provisions of this section shall apply only to interest paid with respect to interest-payment periods commencing on or after January 1, 1963.

"(B) The provisions of this section shall apply to amounts described in section 3472 of such code paid on or after January 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after January 1, 1963."

Mr. BUSH. Mr. President, may we have the amendment identified?

Mr. HARTKE. Mr. President, it is my amendment 8–29–62—A.

The PRESIDING OFFICER. The clerk will identify the amendment.

The LEGISLATIVE CLERK. The Senator from Indiana [Mr. HARTKE] offers an amendment identified as "8–29–62—A," which is, on page 354, beginning with line 4, to strike out all through line 19 on page 369 and insert a section 19, "Withholding of Income Tax at Source on Interest, Dividends, and Patronage Dividends."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Indiana [Mr. HARTKE].

Mr. HARTKE. Mr. President, much has been said about the proposal to withhold taxes due on dividends and interest, and many Americans have been led to believe—I think mistakenly—that the original proposal was for new taxation. Of course, it was not.

My amendment is designed to eliminate any arguments which might come from the widows, from the children, from the older people, from the thrift associations—the savings and loan associations or the banks—because it would not cover those persons.

When I originally examined the tax bill, as I understood it to come from the President, the bill had two basic purposes. The first basic purpose was to close the tax loopholes; and the second basic purpose was to provide an incentive for business growth. Insofar as

revenues were concerned, the cost of providing incentives for business growth was to be recouped by closing the hidden loopholes.

One part of that proposal was not to be a substantive change in the law, but instead a procedural change, which was to apply the same withholding provision to dividends and interest income as was applied to wages and salaries of wage earners. The proposal was to apply withholding to those who earn their living from investments and also from coupon clipping, in the same manner as it applied to income from wages; in other words, to apply the same principle of withholding to those who receive funds from the working of their dollars as is applied in the case of those who work with their hands and their minds.

My amendment would provide for the Government an estimated revenue recoupment of $530 million. It was estimated that the original proposed withholding provision would bring in, according to what I have been able to calculate from reliable reports, some $780 million. As a result Senators are to be given an opportunity to place back into the bill about three-fourths of the loss already occasioned by the failure to adopt the House withholding principle.

Frankly, the withholding provision proposal in the Finance Committee was turned down based upon the arguments made by the thrift institutions, the savings and loan institutions, and the banks. Their opposition to the bill was quite vehement.

There was a problem presented as to minors, which I thought was corrected. There was a problem with respect to the elderly, which I thought was corrected. There was a problem with respect to widows and others, which I thought was corrected.

Some people thought, however, so far as this question is concerned, that the procedure recommended would be too cumbersome. As a result, the Finance Committee proposed that a certain reporting system be adopted.

The Treasury Department has consistently said that the reporting system could not and would not provide for the recoupment of the revenue loss.

I have consistently supported this provision, both in the committee and in the Senate. I understand how Senators could be swayed, either by the large amount of mail or by arguments concerning withholding on savings accounts. Frankly, I disagree with them, but I can understand how they could be swayed by the arguments.

However, I fail to see why the entire principle of withholding should be rejected, especially in respect to those who are receiving their incomes from dividends on stocks, or those who are receiving interest on certain evidences of indebtedness, in particular stocks and corporate investments.

(At this point Mrs. NEUBERGER assumed the chair as Presiding Officer.)

Mr. HARTKE. This list of those types of interest and those types of dividends which would be covered is set forth on page 3 of my proposal, in case any Senator would like to read about that in detail.

The withholding principle in and of itself is a good principle. It has been good because it has provided not alone a means for collection. It has been helpful to the Treasury Department on a certain level. It has provided for payment by all of a fair share of the taxes.

After all, the national debt, to the extent it has been incurred—much of it due to war—is the debt of each individual person who pays taxes. It does not belong to some more than to others, merely because some have an opportunity to avoid payment of taxes or, in some cases, an opportunity to evade the payment of taxes.

Frankly, I feel that the Finance Committee and the Senate acted in good faith in striking the proposed withholding section from the bill. I assume they did. As I have said, that argument certainly can apply to dividends. It certainly cannot apply to interest on stocks and bonds. Many people are avoiding paying those amounts at the present time.

The tables shown in volume 10 of the hearings, pages 4355 and 4356, show that about 11.8 percent of dividends which are paid are never reported on income tax returns.

I believe in plugging loopholes. I think we should be fair to one group of our society as well as to others. As I have said before, the arguments which apply to widows and children, thrift associations, and banks no longer apply here.

I call attention to the fact that the minority leader and I had a little discussion about a certain statement in which he was speaking about H.R. 10. I did not oppose him on H.R. 10. I opposed my own leadership on that measure. I thought the measure had some merit.

I ask unanimous consent to have printed at this point in the RECORD an article entitled "Dirksen Tells Opposition to Tax Break for Professionals," by Carleton Kent, published in the Chicago Sun-Times on March 4, 1959.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DIRKSEN TELLS OPPOSITION TO TAX BREAK FOR PROFESSIONALS

(By Carleton Kent)

WASHINGTON.—Senate Republican Leader EVERETT M. DIRKSEN, of Illinois, emerged Tuesday as an opponent of a tax-exemption bill supported by doctors, lawyers, and other professional persons.

Fresh from the regular weekly conference of GOP leaders with President Eisenhower, DIRKSEN told White House reporters the bill would "plow a hole" of as much as $3,365 million in Federal revenues.

The measure, which the House Ways and Means Committee has reported out favorably, is identical to one the House passed by a voice vote (no rollcall) late in the last session of Congress, and which died in the Senate Finance Committee's files.

Its authors are Representative EUGENE J. KEOGH, Republican, of New York, and Representative Richard M. Simpson, Republican, of Pennsylvania, both of whom rank high on the Ways and Means Committee.

PERSONAL OPPOSITION

Perhaps because Simpson also is chairman of the Republican House campaign committee, DIRKSEN emphasized that his opposition was personal, and that he had not discussed it with other Republican leaders.

Nor had President Eisenhower taken a position on the matter when DIRKSEN brought it up, the Illinois Senator said.

The Keogh-Simpson bill would permit self-employed persons to deduct from their taxable incomes up to $2,500 a year, and a total of $50,000, paid into private institutions to create pensions for themselves.

TELLS CHIEF OBJECTION

DIRKSEN claimed this would cost $365 million annually in Federal revenues, starting January 1, 1959, but indicated this wasn't the chief reason for his opposition.

"If you do this, teachers, railroad workers, people on social security and others who pay on pension funds could come in with good grace and ask for tax exemptions on their contributions," DIRKSEN said.

"And this would open a $3 billion hole in Federal revenues over a period of years."

The Senate minority leader indicated he might have favored the bill earlier when he added:

"My dedication to a balanced budget is such that I will assert it even if it means rejecting a commitment I had already made."

DOUGLAS HELD DUBIOUS

So far Senator PAUL H. DOUGLAS, Democrat, of Illinois, has not announced his position on the bill, which has an excellent chance to be passed by the House again. But his friends said he was dubious, on grounds that the bill would narrow the Federal tax base.

A leading light in pushing the Keogh-Simpson measure is Stephen A. Mitchell, Chicago attorney, former Democratic national chairman, and an old political foe. But DIRKSEN's friends said Mitchell's position had not turned DIRKSEN's sympathies against the measure.

LOBBY FORMED IN 1957

The lobby behind the Keogh-Simpson bill, formed in 1957, calls itself the American Thrift Assembly, and claims to represent 500,000 persons. Its board of directors represents a broad range of professional and other self-employed groups:

The American Bar Association, American Institute of Accountants, American Institute of Architects, American Dental Association, American Medical Association, American Optometric Association, American Patent Law Association, American Veterinary Medical Association, National Association of Real Estate Boards, National Association of Retail Druggists, National Association of Tax Accountants, National Association of Women Tax Lawyers, National Small Businessmen's Association, and the National Society of Professional Engineers.

Mr. HARTKE. In answer to a question a while ago the Senator from Illinois [Mr. DIRKSEN] stated that the measure would have caused a revenue loss of $3,365 million. Two amendments to the bill before the Senate have been offered by the minority leader, both of which would cause a revenue loss to the Treasury. The Senator did not seem to feel any qualms about asking the Senate to agree to those measures. There would be a reduction of $500 million in tax revenue in regard to judicial reform. I am not arguing the merits of the proposal, but it would cost $500 million. The Senator did not seem to object to asking for a $50 million annual loss of revenues in respect to the measure which would provide for special tax consideration for people over 65 in the sale of their houses, eliminating the capital gains tax. I asked the Senator at that time how he planned to vote, if given an opportunity, to provide for a closing of some of the loopholes and to provide for a balanced budget.

My amendment would balance the tax bill. Senators who are concerned about balancing the budget should support the measure. As I said before, the amendment would provide a recoupment of $530 million of the $800 million which was lost.

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. HARTKE. I yield to the Senator from Iowa.

Mr. MILLER. The Senator is talking about recouping revenue which he fears would be lost without the amendment. However, it seems to me that by having the language which is present in the bill, and which was added to the bill in committee by the chairman of the committee, which would require information returns to be sent to the taxpayer—the recipient—and to the Internal Revenue Service alike, would go a long way toward improving the present situation.

I am wondering why the Senator would not be content to try that system to see how it would work. If it did not work—if it did not catch the revenue which is being lost now—then and only then we would resort to something as vast as the Senator's proposal.

Mr. HARTKE. The Secretary of the Treasury told us in committee that, so far as the procedure of reporting is concerned, although it was thought to be a good suggestion, no provision would be made for the necessary checking. The task would be beyond the capabilities of the present staff. Additional staff members would be required to collect the revenue. Although reports would be sent to individuals, still someone would have to check the returns against the reports. I do not object to that type of informational return, but I do not believe it would provide the proper revenue. The Treasury Department does not believe it would provide the revenue necessary to balance the tax bill.

Mr. MILLER. I thank the Senator for his response. I cannot agree with the Secretary of the Treasury in that respect. I think the additional auditing which he envisions as a result of trying to take care of the informational returns would be offset by the additional auditing of millions of claims for refunds, which the amendment of the Senator from Indiana would entail. I recognize that there is a difference of opinion. I appreciate the Senator's response.

Mr. BYRD of Virginia. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. BYRD of Virginia. As I understand, the amendment of the Senator from Indiana is similar to an amendment which was previously rejected by the Senate—receiving only 20 votes—with the exception of the fact that under the Senator's amendment there would be no withholding of interest on deposits in savings and loan institutions.

Mr. HARTKE. Savings and loan institutions and bank deposits.

Mr. BYRD of Virginia. With that exception, the amendment is the same as that which was rejected in the Senate Finance Committee twice, once by a vote of 10 to 5 and once by a vote of 11 to 5. When the proposal reached the floor of the Senate, it received only 20 votes.

Mr. HARTKE. The chairman of the committee is exactly correct. I was 1 of the 20.

Mr. BYRD of Virginia. Senators have already voted on the substantive provisions of the amendment, and only 20 Senators voted in favor of it.

Mr. HARTKE. I invite the attention of my distinguished chairman to the fact that the House of Representatives passed the bill in a form which included withholding of taxes on savings, and the opposition to the withholding provision basically came from the savings and loan institutions. I am not saying whether they were right or wrong. I thought they were wrong. Many Senators probably thought they were right, and that an undue burden would be placed upon those institutions.

It now seems that the burden is relieved. The representatives of most corporations with whom I have talked tell me that there would be no additional burden involved in withholding, as distinguished from reporting on dividends.

Mr. BYRD of Virginia. The amendment of the Senator from Indiana would withhold taxes on every other kind of interest except interest from building and loan institutions. Such institutions were eliminated because of the fact that they made strong objection to the withholding plan. I think if we were to withhold taxes of that kind at all, we ought to withhold with respect to everyone.

Mr. HARTKE. I quite agree with the distinguished chairman.

Mr. BYRD of Virginia. If taxes were to be withheld on all other kinds of interest and on all kinds of dividends, there should be no exemptions.

Mr. HARTKE. The distinguished chairman is exactly correct. I think withholding should apply to everyone. The Senate decided otherwise. I am now giving Senators an opportunity to vote to withhold taxes on payments by some of such institutions.

If the principle of withholding is to be applied to a person who works with his hands and to a person who is on salary, it should apply also to a man who clips coupons, receives dividends, and obtains his income from investments. I grant that the amendment would not cover all savings institutions; but possibly next year we can apply the measure to the remainder of the institutions. I wish the principle to be applied. I think it is good.

Mr. BYRD of Virginia. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. BYRD of Virginia. The Senator knows that the Senate Committee on Finance spent many hours considering that provision. The committee heard many witnesses. It remained in executive session. There were two votes on the measure. It was, we decided, that the reporting system would be adequate. The information would be available in time so that the Secretary of the Treasury could collect the taxes.

It was further concluded that the measure would be a great hardship on millions of people. Fifteen million people would be involved. It was said that those entitled to receive refunds would get them within 4 months. However, there is no assurance that they would get their refunds in 4 months. The Senator from Indiana knows that a taxpayer desiring a refund would have to fill out a four-page complicated application to get a refund of a few dollars.

I hope the Senate will reject the amendment. The proposal has been before the Senate for months. I do not see why we should reverse ourselves and give privileges to the building and loan people, and apply withholding to everyone else. It ought to be all or none.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana [Mr. HARTKE]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Mississippi [Mr. EASTLAND] and the Senator from Washington [Mr. MAGNUSON] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], the Senator from Wyoming [Mr. HICKEY], and the Senator from Missouri [Mr. SYMINGTON] are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. BIBLE], the Senator from Mississippi [Mr. EASTLAND], the Senator from Wyoming [Mr. HICKEY], and the Senator from Washington [Mr. MAGNUSON] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. MURPHY] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], and the Senator from New Hampshire [Mr. MURPHY] would each vote "nay."

The result was announced—yeas 20, nays 69, as follows:

[No. 243 Leg.]

YEAS—20

Bartlett	Gruening	Morse
Carroll	Hart	Neuberger
Clark	Hartke	Pell
Cooper	Humphrey	Proxmire
Dodd	Kefauver	Smith, Mass.
Douglas	Mansfield	Yarborough
Gore	McNamara	

NAYS—69

Aiken	Fong	McGee
Allott	Fulbright	Metcalf
Beall	Hayden	Miller
Boggs	Hickenlooper	Monroney
Burdick	Hill	Moss
Bush	Holland	Mundt
Butler	Hruska	Muskie
Byrd, Va.	Jackson	Pastore
Byrd, W. Va.	Javits	Pearson
Cannon	Johnston	Prouty
Capehart	Jordan, N.C.	Randolph
Carlson	Jordan, Idaho	Robertson
Case	Keating	Russell
Chavez	Kerr	Saltonstall
Church	Kuchel	Scott
Cotton	Lausche	Smathers
Curtis	Long, Mo.	Smith, Maine
Dirksen	Long, Hawaii	Sparkman
Ellender	Long, La.	Stennis
Engle	McCarthy	Talmadge
Ervin	McClellan	Thurmond

Tower	Williams, N.J.	Young, N. Dak.
Wiley	Williams, Del.	Young, Ohio

NOT VOTING—11

Anderson	Eastland	Morton
Bennett	Goldwater	Murphy
Bible	Hickey	Symington
Bottum	Magnuson	

So Mr. HARTKE's amendment was rejected.

Mr. BYRD of Virginia. Madam President, I move that the Senate reconsider the vote by which the amendent was rejected.

Mr. ROBERTSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Madam President, I call up my amendment designated "8–29–62—C" and ask that it be read.

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). The amendment will be stated.

The LEGISLATIVE CLERK. At the end of the bill it is proposed to insert the following new section:

SEC. . CREDIT FOR POLITICAL CONTRIBUTIONS.

(a) ALLOWANCE OF CREDIT.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by renumbering section 39 (as renumbered by section 2(a) of this Act) as section 40 and by inserting after section 38 (as added by such section) the following new section:

"SEC. 39. CONTRIBUTIONS TO POLITICAL CANDIDATES OR POLITICAL COMMITTEES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to one-half of so much of the political contributions (as defined in subsection (c)), payment of which is made by the taxpayer within the taxable year, as does not exceed—

"(1) $20, or

"(2) $40, in the case of a husband and wife who file a joint return under section 6013 for the taxable year.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 34 (relating to credit for dividends received by individuals), section 35 (relating to partially tax-exempt interest), and section 37 (relating to retirement income).

"(c) DEFINITIONS.—For purposes of subsection (a), the term 'political contribution' means a contribution or gift to—

"(1) any political candidate, or

"(2) any political committee,

but only if such contribution or gift is made to further the candidacy of one or more individuals in a general or special election."

(b) CLERICAL AMENDMENT.—The table of contents for such part IV is amended by striking out

"Sec. 39. Overpayments of tax."

and inserting in lieu thereof

"Sec. 39. Contributions to political candidates or political committees.

"Sec. 40. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1962.

Mr. MCNAMARA. Madam President, all too seldom do we have an opportunity to vote on major tax legislation.

It seems to be much easier to permit tax inequities to remain locked into the statute books, to permit loopholes to remain wide open, than to attempt the reform so urgently needed in our tax laws.

Thus it is a real disappointment to find what has been billed as a major tax revision—is the sorry specimen now before us.

This measure is a quagmire of inconsistencies.

Rather than plug up gaping tax loopholes, the bill has managed to drill a brandnew one through which more than a billion dollars will escape the Treasury under the guise of an "investment incentive" to business.

Adding insult to that is the apparent fact that not even the business community is particularly enthusiastic about this handout that a willing Congress is about to force upon it at the expense of the Treasury.

And rather than put an end to the shocking abuses of the expense account, the Senate version of the tax bill seems to have found a way to make these abuses a bit more legal.

What about the major revenue-producing item in this so-called "tax revision"—the application of the withholding tax to dividends and interest?

This would have brought in an estimated $900 million a year in taxes due the Government but not paid, and might have made the rest of the bill at least palatable, if not exactly savory.

But no. The Senate permitted itself to be snowed under by an avalanche of propaganda, and withholding on dividends and interest was knocked out of the bill.

This is not the first time the tax dodger has hidden behind the skirts of the widows and orphans, and it probably will not be the last.

But the worst of all defects in this tax bill is that it is an empty bag so far as the rank-and-file taxpayer is concerned. It contains nothing to alleviate his unfair tax burden. It does not lower his tax rate—or increase his deductions—or raise personal exemptions from the present $600 to a more realistic $700 or $800.

It does not do away with unfair consumer taxes, such as the 10-percent excise tax on the purchase of his new automobile.

It contains nothing for him except an interesting object lesson of how the lobbyist and the tax lawyer plys his trade in behalf of already well-heeled interests.

To be sure, a ray of hope is held out to the taxpayer. We are told that his turn will come next year, when a major revision of the tax structure will be undertaken.

But I would caution the taxpayer not to get too excited over this prospect. If next year's tax revision displays the same vast gap between proposal and performance as does this year's bill, there will be precious little in it for the average taxpayer.

Madam President, for these reasons, because the bill before us does nothing for those who need help the most, because it will create new tax loopholes costing upward of a billion dollars with no matching income, I shall vote against the pending measure.

Mr. HARTKE obtained the floor.

Mr. SPARKMAN. Madam President, will the Senator from Indiana yield to me?

Mr. HARTKE. Madam President, I yield to the Senator from Alabama without losing my right to the floor.

Mr. SPARKMAN. I ask the attention of the senior Senator from Oklahoma. I should like to ask a question for clarification. It relates to the language in the report concerning the definition of a domestic building and loan association.

Am I correct in understanding that there is nothing in the bill or the report which would preclude or limit savings and loan associations in the buying of participations in loans to the extent permitted by the regulations of the Federal Savings and Loan Insurance Corporation.

Mr. KERR. The Senator is correct, and on page 186 of the report specific reference is made to the fact that a participation in the loan will be considered in the same manner as a loan made. The program of participation lending has been developed and encouraged by the Federal Home Loan Bank Board and this bill does nothing to impede it.

Mr. SPARKMAN. On page 48 of the report, referring to paragraph (B) in the definition of a domestic building and loan, there is a sentence:

It is not intended, however, that this prevent necessary borrowings from Government agencies such as HOLC.

Am I correct in assuming that this includes loans from Federal home loan banks, the Federal Savings and Loan Corporation, and any other Federal agency from which a savings and loan might legally borrow?

Mr. KERR. The Senator from Alabama is correct; an association could borrow any amount from any Federal agency to the extent otherwise legally permissible. The reference in the report to the HOLC was intended merely as an example.

Mr. SPARKMAN. Also, Madam President, I assume that the word "necessary" means "necessary" for the conduct of business as determined by management.

Mr. KERR. It was not intended that such borrowings would be limited to emergencies. Any borrowing that the management felt was necessary or desirable for the conduct of business would meet this test.

Mr. SPARKMAN. Along this same line, Federal and State associations are also permitted to borrow from commercial banks. Am I correct in understanding that such borrowing is not precluded under this definition?

Mr. KERR. Federal associations are permitted to borrow up to 10 percent of their capital from non-Government sources. I understand State laws are similar. Some may be slightly higher or lower, but borrowing in this range would certainly be acceptable. We do not have the intention of forcing borrowing from Government agencies instead of private banks.

Mr. SPARKMAN. Madam President, I certainly thank the Senator from Oklahoma for clarifying these points. I know the clarification was needed.

I also thank the Senator from Indiana [Mr. HARTKE] for yielding for this purpose.

Mr. KERR. Madam President, I thank the Senator from Alabama, who is a recognized authority on the matters to which his questions were addressed, for bringing them up, so that these points might be clarified.

Mr. HARTKE. Madam President, my amendment is simple, but is important to the cause of democracy.

The question is whether elections will continue to be run on the basis of contributions by large contributors, or whether the contribution base will be broadened. In 1960 over $8 million was donated by individuals to groups such as health, welfare, and charitable organizations. Every one of these organizations is very important, but none of them will be of value if the cause of democracy is lost.

This matter is of great concern to many persons. The President has called for a study of this subject, and his Commission on Campaign Costs endorses the approach taken in my amendment.

The amount involved in the amendment is very small. The maximum credit any individual could claim would be $10. In order to get a $10 tax credit, he would have to make a political contribution of at least $20. In other words, he could deduct half of his $20 contribution and could receive it as a tax credit—but only half. One who contributed $10 would be able to deduct, as a tax credit, $5.

In the first place, we know that it costs a great deal to conduct political campaigns. The exact amount perhaps is unknown; but it has been estimated as being between $165 and $175 million. At the present time, this cost is spread over an estimated 10 million givers. In my opinion, the base of the political contributions should be broadened. We know that unless something is done, some Government action will have to be taken, although perhaps at a different level.

I talked to the distinguished Senator from Arizona [Mr. GOLDWATER], the chairman of the Senate Republican Campaign Committee, and he indicated that he is receptive to a measure along this line, which will make it possible for people to receive such tax credits for the political contributions they make.

Some persons may feel that such an amendment does not belong in this bill; but I think the time has come to do something constructive about this matter, so long as it will not interfere with the President's recommendations.

Mr. McCARTHY. Madam President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. McCARTHY. I support the Senator's amendment. Our State has allowed for some years a deduction of up to about $100 against the State income tax, for political contributions. That works well, and has been easy to administer; and I think it has had a good effect on politics in Minnesota.

Mr. HARTKE. I thank the distinguished Senator from Minnesota. I may say that Minnesota has taken a lead in this field, and has been pointed to with a great deal of pride by the Political Research Foundation, which has given a great deal of study to this matter and to the subject of tax incentives for this purpose. On page 22 of its report it says that, on balance, such a tax credit for half of the amount of the contribution, up to a maximum of $10, appears to have more advantages and to represent greater justice, is easier to claim, and appears to offer more incentive to small contributors.

Mr. CANNON. Madam President, will the Senator from Indiana yield?

Mr. HARTKE. I am glad to yield to the distinguished Senator from Nevada—who, incidentally, has introduced a bill which encompasses this item and other items in connection with the financing of presidential campaigns. He has done an excellent job, and I commend him for it.

Mr. CANNON. I thank the Senator from Indiana. I wish to say that the Subcommitee on Privileges and Elections considered this matter and heard considerable testimony in support of such a provision. The bill as reported to the floor of the Senate contained such a provision. However, there was a question as to whether the provision might be subject to a point of order. Therefore, the controversial section was withdrawn, and the bill was sent to the House; but I took the opportunity to recommend to the chairman of the House committee that it consider adding the particular provision with which the Senator from Indiana is concerned.

I may say that the evidence presented before our committee supported this type of approach to campaign financing. I believe it is a reasonable and a good one, and I am very happy to support the Senator's amendment.

Mr. HARTKE. I thank the Senator from Nevada.

I wish to say that this amendment will, at least to this extent, be of assistance to individuals who wish to make contributions to the committees or candidates or parties of their personal choice, so long as the contributions are made for the purpose of sponsoring or aiding a person in a particular election to be elected.

Campaign funds and expenses are growing larger and larger. We hear about the great costs of television. In New Jersey the television costs are probably prohibitive, because of the fact there are no television stations in that State. Yet the candidates there would like to have their message brought to the American people.

Madam President, I think the amendment makes good sense. The American Heritage Foundation, various labor organizations, and similar organizations would, in my opinion, feel that this is the type of approach which they could support.

I hope that Senators who are interested in the cause of democracy and in the financing of political campaigns will give this amendment favorable consideration; and I hope the amendment will be adopted.

Mr. YOUNG of Ohio. Madam President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. YOUNG of Ohio. I desire to compliment the distingnished Senator from Indiana. I feel that he has offered a meritorious amendment to this tax bill. He has rendered a real and a needful public service.

I think we should encourage people of moderate circumstances and poor people to aspire to public office; and any legislative proposal of this sort certainly deserves our support. So I hope the amendment will be adopted.

Mr. HARTKE. I thank the distinguished Senator from Ohio for his offer of confidence.

Mr. KERR. Madam President——

The PRESIDING OFFICER. Does the Senator from Indiana yield?

Mr. HARTKE. I am glad to yield to the Senator from Oklahoma.

Mr. KERR. I was seeking the floor.

Mr. HARTKE. I am glad to yield the floor.

Mr. KERR. I would hope my good friend from Indiana would not press this amendment. It is one which would implement a new policy which has, so far as I know, never heretofore been a part of our tax laws. There have been no hearings on it before the committee, either of the House or the Senate. If we were going to recognize the principle of permitting a deduction for a contribution to a political committee, I call the Senator's attention to the fact that, if I understand the amendment, it is not limited to contributions to a political party, but includes contributions to any political committee, and each person can use his imagination as to the scope and extent of the committees which would be eligible to be the beneficiaries of this amendment, and the donor would have a tax credit for making the contribution. It would seem to me that that certainly is going very far afield and implementing a privilege with a wide-open application insofar as the indentity of the beneficiary is concerned.

We are going to have tax legislation before the Congress next year, general in nature, and I am sure there will be an abundance of opportunity available to any Member of Congress who seeks to have such an amendment or proposal as this considered.

In view of that fact, I hope the distinguished Senator from Indiana will not press his amendment.

Mr. HARTKE. Madam President, will the Senator yield for a question?

Mr. KERR. I do.

Mr. HARTKE. In the first place, with reference to the Senator's statement about its being wide open, I suppose the Senator is aware of the fact that the maximum a taxpayer could claim would be $10. He is not going to spread that amount far and wide.

Mr. KERR. I understand he would not spread it far and wide, but he could apply it far and wide.

Mr. HARTKE. He could not spread it very far and wide if he wanted, for example, to contribute $1 each to several committees.

Mr. KERR. He might want to contribute the full amount to one committee whose identity the Senator from Oklahoma could not imagine.

Mr. HARTKE. It is the right of every American not only to vote as he wants

to, but to contribute to a political committee if he wants to contribute to it, so long as that committee does not subvert the Constitution. The taxpayer should have the right, if he wants to, to contribute $10 to someone for one vote, and that would not go too far.

Mr. KERR. If the Senator from Oklahoma were going to contemplate favorably such a proposal as this, the first identity he would want to make eligible would be the Democratic Party. The Senator from Oklahoma is aware of the fact that he would not get very far in proposing a deductible privilege for a donor to the Democratic Party without also making that deduction available for a donor to the Republican Party. But the Senator from Oklahoma would feel that, having had an urge to make such a contribution deductible, he would have gone far enough and have satisfied most Members of this body if it were limited to the Democratic or the Republican Party.

I would not, as of today, favor an amendment of that kind, because it is a new principle in the matter of tax deductions, and it should be studied by the committees of Congress before being presented to the Senate or the House for their action. But even though the Senator from Oklahoma would urge making contributions to the Democratic Party and/or the Republican Party deductible, he could not support this amendment, because under its provisions a contribution to other political committees would be deductible.

Mr. HARTKE. The Senator is right. I would point out, however, that there have been hearings on the proposal. As the Senator from Nevada [Mr. CANNON] pointed out, there were hearings held. The President——

Mr. KERR. Before what committees of the Congress?

Mr. HARTKE. The Senate committee of which the distinguished Senator from Nevada [Mr. CANNON] is chairman. The Subcommittee on Privileges and Elections of the Committee on Rules and Administration conducted hearings on this matter, and, if I understood the Senator from Nevada, acted favorably and approved deductions of this kind. If I am in error, I would like to be corrected.

Mr. CANNON. Madam President, if the Senator will yield, the Senator from Indiana is correct. This matter was gone into by our committee on the overall bill, which included various methods of financing, whether by tax credit or deductions or other methods, and this was the method approved by the Subcommittee on Privileges and Elections, and also reported by the full committee.

Mr. KERR. Madam President, I would presume that a matter having to do with tax measures must have been heard by the House Ways and Means Committee or the Senate Finance Committee. It is my understanding that those are the committees which appropriately have jurisdiction over such matters. I did not attempt to speak with reference to which other committees considered it.

Mr. MANSFIELD. Madam President, if the Senator will yield, I believe the chairman of the Subcommittee on Elections and Privileges will agree that the financial aspect of the bill which his committee reported on was taken out because there was a conflict as to whether or not the Finance Committee should have jurisdiction of the section. Is that correct?

Mr. CANNON. The Senator is correct. I made the statement that there was a good question as to whether the particular provision was subject to a point of order because it should properly be considered by other committees of the Senate. Therefore, the provision that is in question here was deleted from the bill as it was considered in the committee.

Mr. MANSFIELD. Was that deletion considered by the Finance Committee, which has jurisdiction of tax matters?

Mr. KERR. So far as I know, it was not, and I would hope the Senator from Indiana would delete that part of the amendment.

Mr. HARTKE. The bill had basically two purposes. One was an incentive for business growth, and the other was closing tax loopholes. I would like to have offered the amendment, but hearings were had upon tax reform and upon the subject of giving special benefits to people who have capital gains.

Mr. KERR. As I understand, the Senator refers to H.R. 10 in one part of the amendment——

Mr. HARTKE. No; I am talking about the two amendments submitted by the minority leader. One was with relation to a special situation in the State of Illinois, to permit a tax deduction for contributions for tax reform——

Mr. KERR. With reference to that, the measure was considered by the Ways and Means Committee of the House and reported by it unanimously.

Mr. HARTKE. To the Senate Finance Committee?

Mr. KERR. To the House.

Mr. HARTKE. I ask the Senator in charge of the bill if this matter was considered by the Finance Committee.

Mr. KERR. No; my statement to the Senator's question is that it was not considered either by the Ways and Means Committee or the Finance Committee.

Mr. HARTKE. I stand corrected if I am wrong. Really, the first amendment submitted by the minority leader was the amendment which was going to cost $50 million annually, which the Executive says has basic inequities in it. The Senate accepted the amendment submitted by the minority leader relating to the capital gains tax for people over 65, which had an escalator amendment in it. Was that measure considered by the Finance Committee or the Ways and Means Committee?

Mr. KERR. That particular amendment was not considered. The particular amendment offered by the Senator from Illinois was not adopted.

Mr. HARTKE. It was accepted.

Mr. KERR. It was not accepted. The particular amendment which he offered was not.

The Senator offered an amendment which would have exempted from taxation any gain by a person 60 years of age or older on the sale of a home which the taxpayer had possessed and in which he had resided for 5 years.

The matter of the tax treatment on the sale of homes, as the distinguished Senator knows, is a question which has been before the committees of Congress innumerable times through the years and has been the subject of legislation. I know the Senator is familiar with many of the provisions of law which have to do with the tax treatment of gains on homes sold by taxpayers.

The amendment accepted by the Senate was drastically different from the one originally offered by the Senator from Illinois, as to which I understand the estimate was made with respect to losing $50 million in revenue.

Mr. HARTKE. I am sorry, but I did not hear the statement by the Senator as to how much revenue was involved.

Mr. KERR. I used the figure given by the Senator from Indiana.

Mr. HARTKE. $50 million was estimated by the Treasury Department.

Mr. KERR. Yes. As I say, the amendment which was accepted changed the age of eligibility from 60 to 65 and recognized the entire gain with reference to the sale of a residence which sold for not more than $30,000 and the proportionate gain on the sale of a residence which sold for more than $30,000, on the basis of the relationship between $30,000 and the amount of the sale.

I am sure that if the Senator will examine the mathematics, he will find that the cost would be substantially less than would have resulted by adoption of the amendment which the Senator from Illinois originally offered.

Mr. HARTKE. I quite agree with the Senator from Oklahoma. The only point I am making is that the rule with respect to considering only those measures which have been heard by the Finance Committee, in regard to questions of taxation, was broken for the minority leader in this case, because the proposal, in its form as offered or in the form as accepted, as amended by the minority leader, was never heard. The rules were broken at that stage of the game. I am willing to abide by the rules, but since the rules were broken at that stage of the game, I think this proposal deserves much more attention, because it goes to the heart and the spirit of democracy.

People in their old age should have their problems considered. I supported medicare. I am in favor of that. I would have supported this measure. I introduced a bill similar to this.

The point is that the rules were broken at that stage of the game. This is a much more important proposal in respect to the welfare of democracy in its overall total than the proposal with respect to people over the age of 65.

Mr. KERR. The statement by the Senator from Oklahoma is that the principle in this amendment is one which, so far as I know, has never been heard either by the Ways and Means Committee or by the Finance Committee of the Senate. The principle of tax treatment of a gain in connection with the sale of a home is one which has been before the

committees of Congress ever since I have been a Member.

Mr. CARLSON. Madam President, will the Senator yield?

Mr. KERR. I yield to the Senator from Kansas.

Mr. CARLSON. While the amendment offered by the Senator from Indiana might have great merit—I think it does have—certainly it ought to be heard by our committee. It deals with a reduction in revenue income, as well as involving a complete change in the present tax statutes. I hope the Senator will not press for a vote.

Mr. KERR. I thank the Senator from Kansas. Again I urge my friend from Indiana not to press his amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Indiana.

Mr. KERR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Madam President, I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Indiana [Mr. HARTKE].

The amendment was rejected.

Mr. WILLIAMS of Delaware. Madam President, for myself, the Senator from Vermont [Mr. AIKEN], the Senator from Maine [Mrs. SMITH], and the Senator from Wisconsin [Mr. PROXMIRE], I call up my amendment identified as 8–17–62—C.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. At the appropriate place in the bill it is proposed to insert a new section, as follows:

SEC. . REDUCTION OF OVERALL LIMITATION ON INDIVIDUAL INCOME TAX.

(a) 1962.—With respect to taxable years beginning after December 31, 1961, and before January 1, 1963, section 1(c) of the Internal Revenue Code of 1954 (relating to overall limitation on individual income tax) is amended by striking out "87 percent" and inserting in lieu thereof "75 percent".

(b) 1963.—With respect to taxable years beginning after December 31, 1962, and before January 1, 1964, such section is amended by striking out "75 percent" and inserting in lieu thereof "65 percent".

(c) 1964 AND SUBSEQUENT YEARS.—With respect to taxable years beginning after December 31, 1963, such section is amended by striking out "65 percent" and inserting in lieu thereof "60 percent".

SEC. . DEDUCTION OF DEPLETION ALLOWANCES WITH RESPECT TO OIL AND GAS WELLS.

(a) 1962.—With respect to taxable years beginning after December 31, 1961, and before January 1, 1963, section 613(b)(1) of the Internal Revenue Code of 1954 (relating to percentage depletion in case of oil and gas wells) is amended by striking out "27½ percent" and inserting in lieu thereof "25 percent".

(b) 1963.—With respect to taxable years beginning after December 31, 1962, and before January 1, 1964, such section is amended by striking out "25 percent" and inserting in lieu thereof "22½ percent".

(c) 1964 AND SUBSEQUENT YEARS.—With respect to taxable years beginning after December 31, 1963, such section is amended by striking out "22½ percent" and inserting in lieu thereof "20 percent".

Mr. WILLIAMS of Delaware. Madam President, this amendment has a twofold purpose:

First, it would provide for a three-step reduction in the depreciation allowance for oil and gas with a 2½-percent reduction for each year for the next 3 years, bringing it down from its present level of 27½ percent to 20 percent.

The second provision of the amendment would permit a simultaneous three-step reduction in the overall limitation on individual income taxes from its present limitation of 87 percent, bringing it down to 60 percent over the 3-year period.

The combination of these two proposals would effectuate a long overdue correction in our existing tax structure and would make this adjustment with an actual gain of revenue to the U.S. Government.

For example, in the first year the depreciation allowance on oil and gas would be reduced from 27½ percent to 25 percent, and the estimated revenue gained from this action is $75 million.

At this same time the maximum effective rate limitation on individual income taxes will be reduced from its present 87 percent to 75 percent, which would result in a loss of revenue of $25 million, thus representing a net gain to the Treasury Department for that year of $50 million.

The second year the depletion allowance for oil and gas would be reduced from 25 percent to 22½ percent, thus providing additional revenue over present law of $160 million for that year.

Simultaneously the effective rate on individual income taxes would be further reduced from 75 percent to 65 percent, which action would result in an estimated revenue loss of $80 million.

Thus as the result of this combined action the Federal Government would gain $80 million.

Effective the third year and for each year thereafter the percentage depletion rate would be reduced to 20 percent. The estimated revenue gain resulting over present law by bringing the depletion rate on oil and gas down from 27½ percent to the 20-percent level would be $250 million annually.

At the same time in this third year the maximum effective rate limitation on individual income taxes would be further reduced to 60 percent. The revenue loss by reducing this maximum effective rate limitation on individual income taxes from its present 87 percent to 60 percent is estimated at $130 million annually.

The combined net effect of the adoption of this twofold amendment would be that at the end of the 3-year period the present 27½-percent depletion allowance on oil and gas would be reduced to 20 percent and the present overall limitation on individual income taxes would be reduced from its present 87 percent to 60 percent with an annual net gain to the U.S. Government of $120 million.

One of the main arguments in support of the need of the present 27½-percent depletion rate for oil and gas has been that under our existing tax structure, which runs as high as 91 percent—with an overall 87-percent limitation—has been that without some special incentive men of wealth would not venture their capital for the narrow margin of gain of 9 or 13 percent. On that point they have a valid argument, and it is for that reason that we have coupled this proposed reduction in the depletion allowance with the simultaneous reduction in the overall limitation on individual income taxes.

The most important feature of this amendment is that its adoption would provide a more equitable distribution of the tax load in America.

At this point I ask unanimous consent to have incorporated in the RECORD a letter dated January 7, 1961, signed by Colin F. Stam, chief of staff of the Joint Committee on Internal Revenue Taxation, in which the estimates as to the revenue of the different sections of the amendment are outlined.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,
Washington, June 7, 1961.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washintgon, D.C.

DEAR SENATOR WILLIAMS: As you requested the staff has prepared a draft of an amendment (attached) to reduce the overall maximum limitation on individual income tax from 87 percent at present to 60 percent over a 3-year period, and to lower the rate of percentage depletion in the case of oil and gas wells from 27½ percent at present to 20 percent, also over a 3-year period

With respect to the overall limitation on individual income taxes, the draft provides for a three-step reduction, at 1-year intervals, commencing in 1962. For taxable years beginning in 1962, the rate would be 75 percent; for taxable years beginning in 1963, the rate would be 65 percent; and for taxable years beginning in 1964 and thereafter, the limitation would be 60 percent. The staff estimates that these changes in the overall limitation would cause a reduction in revenues to the Federal Government in the amounts shown in the following table:

Maximum effective rate limitation (percent):	*Revenue loss (millions of dollars)*
75	25
65	80
60	130

The draft also provides for a three-step reduction in the 27½-percent depletion allowance for oil and gas, at 1-year intervals, commencing in 1962. Under the draft, for taxable years beginning in 1962, the rate would be 25 percent; for taxable years beginning in 1963, the rate would be 22½ percent; and for taxable years beginning in 1964 and thereafter, the rate would be 20 percent.

It is extremely difficult to estimate the effect of small changes in the depletion rate for oil and gas, because we do not have the data we need concerning the present effect of the 50 percent limitation, and because the data on depletion claimed on individual

income tax returns is incomplete. Consequently, our estimates for your proposal are rough.

Tax year	Proposed depletion rate for oil and gas	Estimated revenue gain over present law
	Percent	*Million*
1962	25	$75
1963	22½	160
1964	20	250

I hope this will be helpful to you.

Sincerely yours,

COLIN F. STAM,
Chief of Staff.

Mr. WILLIAMS of Delaware. Madam President, this proposal should not be too controversial. Perhaps the committee is ready to accept it.

Mr. MANSFIELD. Madam President, it is my intention to move to table the very worthwhile amendment offered by the Senator from Delaware [Mr. WILLIAMS]. It is something new in the way of amendments. It has a good name. It is being offered by the Senator from Delaware [Mr. WILLIAMS], the Senator from Vermont [Mr. AIKEN], the Senator from Maine [Mrs. SMITH], and the Senator from Wisconsin [Mr. PROXMIRE], which gives to it the name "The WASP amendment."

But I do think that Senators ought to have their say both pro and con. I should like to suggest that the Senate vote on a motion to table the pending proposal at 4:30 p.m.

Mr. WILLIAMS of Delaware. Madam President, so far as I am concerned, I have no intention of prolonging the debate. I do not know how much time other Senators may require.

The amendment has received committee consideration. It was offered as an amendment to the bill which was before our committee.

Notice was served to all interested parties who wished to testify that they had an opportunity to appear before our committee. The amendment was pending at the time hearings were held on H.R. 10650. It was discussed during those hearings and it was offered in the committee. So the measure is not something which has been sprung on the Senate without having received committee consideration.

Mr. MANSFIELD. Madam President, I hope the Senator did not take seriously my facetious remark when I referred to his amendment as a new amendment. It is an old, old amendment. I should like to change my request. I ask unanimous consent that 1 hour be allotted on the amendment, the time to be divided equally, before a motion to table the amendment is made and the vote is taken thereon.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. The time will be controlled by the Senator from Delaware [Mr. WILLIAMS] and the Senator from Oklahoma [Mr. KERR].

Mr. MONRONEY. Madam President, has the Senator from Delaware used the time available to him?

Mr. WILLIAMS of Delaware. I understand that a half hour is available to each side. I am willing to have the Senator from Oklahoma proceed. If the Senator from Oklahoma finds that he needs more than one-half hour, I shall yield some of my time to him, I have no intention of using all my time.

Mr. MONRONEY. Madam President, the 27½-percent depletion allowance has given America its vast supplies of oil and gas. It has helped us to victory in two World Wars, in Korea, and in the cold war. The amendment is not a new amendment. It has been before the Senate about once a year as long as I have been in the Senate. It has been considered by the Finance Committee almost every year. As the distinguished author of the amendment has said, the only new provision is the method of the proposed reduction.

This amendment proposes the progressive reduction in the depletion allowance with respect to oil and gas wells from its present level of 27½ percent to 25 percent for the current taxable year, 22½ percent for 1963, and 20 percent for 1964 and subsequent years.

It proposes that a substantial part of the additional revenue which its sponsors claim would result from this reduction be used to offset loss of revenues which would result from a related provision reducing the maximum limitation on individual income tax from 87 percent to 60 percent over the same 3-year period.

This reduction in income tax in the highest brackets is estimated by the staff of the Joint Committee on Internal Revenue Taxation to result in a loss of revenue of $25 million the first year, $80 million the second year, and $130 million in the third and subsequent years. While it is very difficult to make an accurate estimate of the number of taxpayers involved, I am advised by the Treasury Department that the $25 million lost in the first year would probably be divided among some 700 taxpayers; that the $80 million lost in the second year would be divided among some 2,500 taxpayers; and that the $130 million loss of revenue in the third and subsequent years would probably benefit no more than 10,000 taxpayers.

The proposal for making a cut only in these upper levels of income tax has not been recommended by the administration, has not been the subject of more than casual attention in the hearings, and is proposed at a time when the administration is engaged in a review of the tax structure looking toward recommendations for general reduction next year.

When this amendment was suggested to the Secretary of the Treasury during the hearings, the following exchange occurred between Secretary Dillon and the Senator from Delaware [Mr. WILLIAMS]:

Secretary DILLON. I do not think we would agree with that, because we do not think it is equitable to just reduce the higher rates and not also make the adjustments up and down in the rate structure.

Senator WILLIAMS. This would be making adjustments with the same class of taxpayers and picking up revenue at the same time.

I think that you have said that you thought the individual rates were too high.

Secretary DILLON. I agree they are, but when we recommend the change, we will recommend one up and down the line, not just for the top rates.

Not only do I agree with the Secretary of the Treasury that it is not equitable just to reduce the higher tax rates without a general adjustment in the rate structure, but I suggest that this amendment, in effect, proposes to benefit these few thousand taxpayers by means of what would amount to an indirect Federal sales tax on gasoline and other petroleum products, which would be paid by every person who drives a car, operates a truck, or heats his home with fuel oil.

I make this charge because the economic facts of the matter are that the 27½-percent depletion allowance, or an increase in petroleum prices which would yield the same amount of money, is absolutely necessary if the oil and gas industry is to find sufficient new oil and gas to replace that being used, and to meet the growing need for oil products in our expanding industrial economy.

They must get the funds for exploration from somewhere. Either they will come from the 27½-percent allowance for depletion of natural resources or they will have to be added to the price of oil products. There is no other way to get the money.

When any mining industry sells a barrel of oil, or a ton of coal, or a pound of uranium, it has one barrel or ton or pound less left to sell. It exhausts that natural resource. If it is to stay in business, it must replace these resources just as a manufacturing industry must replace its wornout equipment.

A manufacturing industry is allowed to retain a part of its earnings, on which it pays no tax, through a depreciation allowance in order that it may replace wornout equipment. In the same way, all mining industries are allowed to retain a part of their earnings to permit them to find and develop new supplies to replace those which have been used up. The oil industry spends a far greater percentage of its income for this purpose than any other mining industry.

It is not generally recognized that the depletion allowance for the oil industry is limited to 27½ percent of its gross or 50 percent of its net earnings, whichever is less. For the industry as a whole, this results in an average depletion allowance of about 23 percent—the same as provided for sulfur, lead, zinc, uranium, nickel, in fact, for a total of 37 other mining industries. Even the producers of sand and clay have smaller depletion allowances under our laws.

If, when an oil well is exhausted, the owner could just go out and buy another, as he would buy a new truck to replace one that is worn out, the depletion al-

lowance could be set much lower. The allowance is set where it is because the process of finding new supplies of oil and gas entails great risk. Unlike minerals which have outcrops on the surface of the earth, there is no way to be certain where oil is located until the well is drilled and the money spent. If he has average luck, the man looking for the new well will drill eight dry holes before he hits a producer.

Does the Senator from Texas [Mr. TOWER] wish some time?

Mr. TOWER. Yes.

Mr. MONRONEY. Will the Senator tell me how much time he requires?

Mr. TOWER. I should like to have 5 or 10 minutes, if the Senator will yield to me.

Mr. KERR. Madam President, will the Senator yield?

Mr. MONRONEY. I yield.

Mr. KERR. I remind the distinguished Senator that the Senator from Wyoming [Mr. MCGEE] and the Senator from Arkansas [Mr. FULBRIGHT] wish a little time.

Mr. MONRONEY. I shall try to make my remarks brief.

If an oil producer invested $300,000 in a well, and was allowed to recover tax free from the output of that well this same $300,000 of his original investment, he could not normally go out and for $300,000 find another well to replace the one he had depleted by production.

Wildcatting odds are dead against that. On the average, a man drilling rank wildcats—a man going out to find new reserves to replace those being depleted—would have to drill nine exploratory wells to find one that even qualified as a producer. But even at that, his one producing well out of nine would—if typical—turn out to be a financial failure. Under the prevailing odds, only about 3 percent of all the new-field wildcat wells drilled are ultimately successful—producing oil or gas or both in quantities deemed sufficient to turn a profit. Ninety-seven percent of all new-field wildcat wells are commercial failures.

Therefore, based on industry averages over a period of time, an oil producer who was depleting a well that cost him $300,000 would have to have not his $300,000 back but, at the very least, 32 times that original investment, or $9,600,000, to stand a fighting chance of bucking the mathematical odds and finding replacement reserves.

Giving him $300,000 in tax deductions would be little better than giving him nothing. It would be the same as telling him to go out of business because—unless he had a very sensational and remarkable stroke of luck—he just wouldn't be able to find a new wildcat well if allowed no more of a deduction than his investment in a well that was depleting.

In September of 1958 the Chief Petroleum Engineer of the U.S. Bureau of Mines presented a paper to the World Power Conference in Montreal, Canada, in which he discussed the receipts and expenditures of the U.S. petroleum producing industry—including both independents and major companies—for the years 1951, 1953, and 1955. The study shows that in 1955 the industry expended a total of $5.1 billion in the search for and development of new petroleum reserves within the United States. This study also shows that for the year 1955, finding and developing costs together with lifting and other operating costs were in excess of income from petroleum production for the entire producing industry by approximately one-half billion dollars.

The $5.1 billion expended in 1955 in the exploration for and development of new oil reserves was equivalent to $2.40 per barrel of net crude oil production in that year. Based on the U.S. Bureau of Mines average wellhead price of crude oil for the year 1955 of $2.77 per barrel, the theoretical maximum percentage depletion could not have exceeded 76 cents per barrel. This depletion figure, however, for petroleum producers is a theoretical maximum, based on the 27½-percent rate, rather than the actual amount of depletion, since the 50-percent-of-net-income limitation reduces the average effective depletion rate for the petroleum industry to no more than 23 percent.

Thus, the domestic petroleum industry's exploration and development expenditures alone in 1955—not including lifting costs, taxes, and so forth—totaled $2.40 per barrel or more than three times the maximum percentage depletion of 76 cents. That is, for every dollar from percentage depletion plowed back in the search for new oil reserves, the producing industry put up and spent $2 from other sources.

This information, detailed in the accompanying table, clearly demonstrates that the petroleum producing industry requires new capital far in excess of the depletion deduction to carry on the constant search for new oil and gas reserves.

Mr. RANDOLPH. Madam President, will the Senator yield?

Mr. MONRONEY. I am glad to yield to the Senator from West Virginia.

Mr. RANDOLPH. West Virginia is not ranked with Texas and Oklahoma and Louisiana and other major States in the production of petroleum. Yet, from our hills went the oil people of another era to help explore these vast fields in other sections of the country. In West Virginia, in years gone by, we were a pioneering and important oil and gas producing State.

Our State in its entirety, the western three-fourths of Pennsylvania, much of the southwestern area of the State of New York, the eastern half of Ohio, eastern Kentucky, and a narrow strip of the westernmost part of the Commonwealth of Virginia comprise an area known in the oil geology circles as the Appalachian Basin.

Here was located oil's discovery in the United States in 1859—by Col. Edwin Drake at Titusville, Pa. And this was a region of considerable activity in earlier years.

Four of these pioneer oil States—Pennsylvania, New York, Ohio, and West Virginia—are experiencing a new wave of "oil fever." These four States are oil-hunting territory again for several major searchers for new discoveries. During the last 5 years there has been a sharply stepped up effort to try to find more sources of oil and gas closer to the vast market which surrounds it; namely, the industrial complex of the Ohio River Valley with its population of more than 52 million.

Technological advances in exploration, drilling tools, and methods have brought about a significant reworking of this pioneer oil producing Appalachian Basin. But today's driller must reach 1 or 2 miles deeper than Colonel Drake's first 69-footer at Titusville to find a product the Colonel would have considered a bothersome pest—gas. But gas, as well as oil, is a frequent drilling objective today.

Madam President, exploratory and drilling expenditures have more than doubled during the past 5 years in the Appalachian Basin. The level of $6.5 million in 1958 reached $11.9 million in 1961. Estimates for 1962 exceed $14 million. By the end of this year, the oil industry's outlay for the 5-year period is expected to represent a risk venture of approximately $52.7 million in the basin. In addition, farmers and landowners in the basin have been paid $24.4 million for leases, plus annual rental payments of $8.6 million.

Even though these concerted efforts and huge expenditures so far have not brought significant new discoveries in the Appalachian Basin, the industry is continuing its activities in the hope and belief that they may ultimately lead to the discovery of substantial reserves.

Each drilling prospect and the acreage surrounding it represents the concentrated and coordinated skills of highly trained and experienced exploration specialists. Yet, no one in the group can say oil or gas will be found. They can only locate zones where conditions are right for the accumulation of oil or gas. Whether oil or gas actually is there must be proved by drilling a wildcat well. The chances are 9 to 1 against it—45 to 1 against finding a commercial quantity. To engage in risks of that nature is to require encouragement such as the necessary cushion from the depletion allowance.

Considering the unemployment situation and other economic factors prevailing in West Virginia, we are grateful that there is increasing search and discovery activity in our State by the oil and gas industry. We know there is drilling at deeper horizons and that this requires more risk capital.

Drilling permits issued in West Virginia increased from 988 in 1959, to 1,383 in 1960, to 1,647 last year.

Producing gas wells last year numbered 16,485 and produced 194,178,000 cubic feet of gas; 12,699 oil wells in our State produced 2,703,000 barrels in 1961.

Crude oil and natural gas production and distribution—exclusive of refineries and service outlets—provided jobs for 8,547 West Virginia resident employees of independent producers and gas utilities, and provided pension payments for 2,282 annuitants. The independent and utility segment of the industry—again excepting refineries and service outlets—spent approximately $61 million in West Virginia last year—$43.6 million of it in payrolls and $8.4 million for rentals and royalties.

Madam President, I have cited statistics indicating that the oil and gas industry is not an inconsequential segment of the West Virginia economy—that it is happily an expanding segment again—not in contraction. We want it to continue expanding and to discover vitally needed new reserves. Our State needs them and they are vital to the economy and the security of our country. I cannot support a deterrent.

There is another reason why I believe the pending amendment is ill timed. More than 60 Members of the Senate joined me in cosponsoring a resolution which was adopted earlier this year and which empowered the Committee on Interior and Insular Affairs to make a thorough national fuels and energy study. The committee has been making very real progress with this study under the capable direction of its distinguished chairman, the junior Senator from New Mexico [Mr. ANDERSON]. It is anticipated that substantial findings and recommendations will be reported early next year as the 87th Congress gives away to the 88th. We should await the committee's report and its evaluations before taking the nature of action contemplated by the pending amendment. There should be more assurance than has thus far been demonstrated that this amendment will not destroy more than it will create in revenues and in gross national product.

I believe that the incentive which is now written into the law should be continued. The amount of money spent proportionately in West Virginia equals the averages which were given by the knowledgeable Senator from Oklahoma.

Mr. MONRONEY. I thank the Senator for his contribution. I ask unanimous consent to have printed in the RECORD at this point in my remarks some tables which bear on this subject.

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

Net value of production versus expenditures for finding, developing, and producing oil and gas

[In thousands]

	1951	1953	1955
Industry income:			
Net value oil produced	$4,862,136	$5,401,018	$5,884,215
Net value gas produced	465,451	660,501	836,324
Total, net value production	5,327,587	6,061,519	6,720,539
Industry expenditures-exploration costs:			
Geological, geophysical, and related professional services	186,000	243,590	245,440
Lease purchases and rentals	637,910	744,630	876,520
Dry holes	650,290	795,890	940,210
Overhead	126,780	171,270	206,220
Total, exploration costs	1,600,980	1,955,380	2,268,390
Development costs:			
Drilling and completion of producing wells	1,390,050	1,689,607	2,097,225
Equipment (tubing, tanks, flow value, etc.)	420,360	483,000	556,210
Overhead	135,780	168,378	205,640
Total, development costs	1,946,190	2,340,985	2,859,075
Subtotal, exploration and development costs	3,547,170	4,296,365	5,127,465
Operating costs:			
Oil:			
Direct costs	1,274,149	1,392,576	1,540,092
Overhead	242,146	306,326	337,758
Total, oil operating costs	1,516,295	1,698,902	1,877,850
Gas:			
Direct costs	89,220	134,675	134,097
Overhead	7,758	10,920	9,387
Total, gas operating costs	96,978	145,595	143,484
Total, operating costs	1,613,273	1,844,497	2,021,334
Total, expenditures for finding, developing, and producing [1]	5,160,443	6,140,862	7,148,799
Net annual balance	+167,144	−79,343	−428,260

[1] Includes maintenance, supervision, and general overhead but excludes charges for research. The costs do not include income taxes, payment on interest and principal, or return to investors.

Source: "Petroleum and Natural Gas in the United States—Relation of Economics and Technologic Trends," by C. C. Anderson, Chief Petroleum Engineer, U.S. Bureau of Mines, Washington, D.C.

Mr. MONRONEY. In the years since 1955 the cost of finding oil has steadily risen. Not only have drilling costs per foot increased, but the number of feet which must be drilled to find a barrel of oil has gone up each year. Most of the oil located 2,000 to 3,000 feet below the surface of the earth has already been found. A far greater percentage of wells are being drilled at greater depths, and we are now exploring at depths of 15,000 to 25,000, at costs as high as a $1 million per well.

During the same period, the price of crude oil has remained essentially stable, the average value at wellhead having been $2.77 in 1955, $2.79 in 1956, $3.09 in 1957, $3.01 in 1958, $2.90 in 1959, $2.88 in 1960 and $2.89 in 1961.

If the oil industry were keeping more money than it needed to replace the oil being used, then it might be argued that the depletion allowance is too high. The fact is that each year the industry continues to spend more finding and developing new supplies of oil than it retains under the depletion allowance.

It stands to reason that the funds available to the industry for exploration and development cannot be significantly reduced without resulting in a proportionate reduction in exploration and development. I hope that we have not reached the point when the Congress of the United States is ready to adopt a policy that we should not develop our own mineral resources and gain the benefits that such development brings to our economy, but should become completely dependent on imported oil. Our entire economic system is geared to an adequate and dependable supply of petroluem. All our transport, from compact cars to jets, from diesel trucks to diesel locomotives, depends upon a cheap and plentiful supply of petroleum. Our industrial plant depends to a large degree upon petroleum products or electricity generated from them for the sinews of its power.

During World War II petroleum products comprised more than half of the tonnage shipped from the United States to battlefronts all over the globe. The military machines that have been developed since that conflict are even more demanding in their fuel consumption. The Air Force alone consumed nearly 6 billion gallons of aviation fuel in the peacetime fiscal year 1960. And it is no wonder when we realize that a single jet bomber has a fuel tank capacity equal to four railroad tank cars. A *Forrestal*-class aircraft carrier carries 1 million gallons of aircraft fuel plus more than 2 million gallons of fuel for its own engines. Recent model Army tanks consume 600 gallons of gasoline in covering 100 miles, and an armored division must burn up 2,100 gallons of fuel to advance 1 mile.

We cannot afford to depend upon imported oil because of our balance-of-payments situation. Oil imports already contribute a billion dollars a year to our balance-of-payments deficit. We should rather look forward to the time when the dependence on imported oil can be substantially reduced and when the growth of world markets again makes the United States a net exporter of petroleum products.

It is inconceivable that as we enter a trade war with the Soviet Union, with oil as the principal weapon, our Nation should simply relinquish the field to the enemy.

Mr. TOWER. Madam President, will the Senator yield?

Mr. MONRONEY. I yield.

Mr. TOWER. Is the Senator aware of the fact that at the conclusion of World War II the oil reserves of the Soviet bloc were approximately one-third of ours and that today they are almost equal to those of the United States?

Does not this point up the vital necessity of staying ahead in this field?

Mr. MONRONEY. Yes. The great threat of the Soviet trade offensive is in oil. That is one field in which they have surpluses. With it they are penetrating the free world markets.

We cannot have it both ways. If the American oil industry is to continue to find adequate supplies to meet the Nation's needs, it must obtain the necessary funds to pay for the cost of exploration. We must either retain the present depletion allowance, or accept a substantial increase in the cost of gasoline and other petroleum products. There are no other sources of the necessary money. The profits of this industry are consistently lower than the average profits of manufacturing industries in the United States.

Some of those who have been critical of the depletion allowance have frankly recognized that its withdrawal would require an increase in price. Prof. Arnold G. Harberger, of the University of Chicago, has testified that—

> More oil can indeed be obtained by tax concessions * * * [but] * * * if the rest of the economy wants more oil, it should be willing to pay for it by way of a higher market price.

This means primarily an increase in the price of gasoline.

It is impossible to estimate the contribution to our economic health which has been made by the availability of low-cost motor fuel. The entire automobile industry and much of our commercial transportation has been built on this tremendous economic advantage.

Excluding excise taxes, a gallon of gasoline costs less today than it did in 1926. Today, it costs 20.2 cents per gallon, in 1926 it cost 20.9 cents. At average wage rates, 1 hour's work bought 2.6 gallons in 1926. Today, it buys 10 gallons, exclusive of tax.

To give a tax benefit to a handful of Americans with taxable income over $150,000 a year and to make up the difference by levying an indirect tax through immediate higher prices on everyone who owns a car or heats his home with fuel oil—this is a proposition which I am confident the Senate will overwhelmingly reject.

Madam President, I yield 5 minutes to the Senator from Texas.

Mr. TOWER. Madam President, I thank the distinguished Senator from Oklahoma, and I associate myself with his comprehensive report on this subject. The oil business is a very unique business, indeed. Actually, it is a business that has been made by the small entrepreneur, the independent operator. Approximately 80 percent of our oil reserves have been discovered by the independent or marginal operator.

If the depletion allowance is reduced, it will drive the independent operator out of business. As the able Senator from Oklahoma has pointed out, production costs have risen steadily. In 1959 the average cost per well was around $60,100. In 1961 it was $62,200.

It has been pointed out that we have to go deeper and deeper for oil, and at present costs, to get down to 10,000 feet it costs $140,000 to drill a well. And then one does not know whether or not he will get any oil.

In most businesses that is not the situation at all. For example, if a man wishes to open a hardware store, he can take a market survey in the area to determine whether his business will succeed and if there will be a market for his business. Based on that survey he can build his store and buy his stock. Then, if his business does not succeed, he still has his capital assets that have some value, and which he can dispose of. He has not taken a very big risk. That is not the case when a man drills an oil well. When he does that, he does not know whether he will get any oil. It is somewhat like the roll of the dice or the turn of a card.

Oil is extremely important to the defense of this Nation. It is certainly a very important source of tax revenue for State and local governments throughout the various parts of the land.

Oil provides a great number of jobs. It provides our country with material wealth. For this reason the exploration and production of oil must be encouraged.

If we eliminate the depletion allowance, the oil industry, which is already sick, will be even sicker. We are suffering already from imports of oil, and if we eliminate or reduce the depletion allowance, we will inflict an additional burden on the oil industry. We are producing only 8 allowable days a month in Texas, now. This is well below even marginal requirements.

Therefore, I urge the Senate to reject this very well intentioned amendment by the distinguished Senator from Delaware, with whom I am usually associated on fiscal matters, because its adoption would mean economic disaster to many of our oil-producing States. It would mean a substantial loss of tax revenue. Even more, Madam President, it would mean a reduction in the ability of our Nation to wage war through the industrial power that is fueled by petroleum. I believe, furthermore, that it would mean a considerable loss of jobs and production in related industries, and might very well precipitate a recession in the country.

Mr. MONRONEY. Madam President, I yield 5 minutes to the distinguished Senator from Louisiana.

Mr. LONG of Louisiana. Madam President, during the 14 years that I have served in the Senate I have had some experience with this matter. From time to time a Senator has offered a proposal to reduce the depletion allowance on oil and gas. We have debated the matter many times in the Senate. The subject has been studied in committee on occasion. It has not been sustained in the House and it has not been recommended by the committee. Furthermore, the proposal has been defeated by overwhelming vote in the Senate every time it has been brought before us.

If there is a case for reducing the depletion allowance on oil and gas, it is not nearly so good a case as it was 10 or 12 years ago, when the domestic industry was much more profitable than it is now. Actually, the industry is in not nearly so good a condition as it was 12 years ago. About 17 percent of the market for oil in this industry has already been taken from us by low-cost foreign imports which come in under an extremely low tariff.

In addition, as has been indicated, costs have risen. A study made a few years ago by the Chase National Bank indicates that, all things considered, including the allowance for depletion, the oil and gas production industry is less profitable than the average for all manufacturing in America. The industry today is in worse shape than it was at the time that study was made.

So the facts simply do not prove that there is any basis for coming in at this time, without any additional supporting evidence, and saying that the depletion allowance should be reduced below the point where it presently exists.

I have given some thought to a proposal that the top income tax brackets be reduced by taking away the tax advantages which various groups have. If that is to be done, it seems to me it would be much fairer simply to eliminate the dividend credit, as the President has recommended it should be eliminated, and save much more money in that way. Instead of reducing the tax level from 85 to 65 percent, or 60 percent, we could reduce it to 50 percent and still save $100 million to be applied against the national deficit or national debt, however Senators wish to look upon it.

If a motion to table the amendment does not carry, I intend to offer such a proposal as a substitute for the amendment offered by the Senator from Delaware. Most of the giant corporations are incorporated in his State anyway. Inasmuch as the reduction is to be regarded as a reduction in personal income tax rates, it seems appropriate to me that those who are in the class who, for the most part, do not enjoy the highest personal income tax—that is, who enjoy large incomes from dividends—should be willing to give up something rather than to hope to gain a complete tax advantage at the expense of only one segment of the economy—those who produce oil and gas.

If that approach is to be pursued, I should like to offer an amendment in the nature of a substitute to abolish the dividend credit, a credit which has never been approved affirmatively by the Senate. It was rejected by the Senate. It got into the law only as a part of a conference report, with the administration fully supporting the whole package in the conference report. The Senate has repeatedly voted to reject the dividend credit.

If this approach is to be persisted in—and I shall not insist upon it myself—I shall insist on reducing income taxes from the top level by a proposal to eliminate the dividend credit, because that seems to me to be a way which would fall generally across the whole economy with regard to all those who are privileged to enjoy dividends, both from oil and gas companies and any other kind of industrial companies, so that everyone may share the burden of reducing the top

bracket to a rate of 50 percent instead of 60 percent.

Mr. DOUGLAS. Madam President, I ask for the yeas and nays.

Mr. WILLIAMS of Delaware. Madam President, will the Senator from Illinois withhold his request? The motion to table has not yet been made.

Mr. DOUGLAS. I withhold my request.

Mr. CARLSON. Madam President, will the Senator from Oklahoma yield 5 minutes to me?

Mr. MONRONEY. Madam President, I yield 5 minutes to the distinguished Senator from Kansas.

Mr. CARLSON. Madam President, I wish to associate myself with the distinguished Senator from Oklahoma [Mr. MONRONEY], the distinguished Senator from Texas [Mr. TOWER], and the distinguished Senator from Louisiana [Mr. LONG], in their opposition to the pending amendment.

For various reasons, this proposal has received increasing attention in this body over the past several years, as well as in the public press. I shall refer in general to the differential tax treatment Congress has authorized for mineral producers and, more particularly, to the percentage depletion rate for oil and gas production.

As we well know, this tax provision has been the subject of repeated study and review by Congress during the 36 years that it has been a part of the Internal Revenue Code. In spite of repeated votes of approval of this vital tax provision, there still remain some who, for one reason or another, seek to reduce the rate or eliminate this vital tax provision.

Many Senators are well acquainted with the historical growth and merits of percentage depletion; while others, I fear, do not quite understand how this provision has served the national interest for more than 36 years.

Madam President, without going into an extensive discussion of this matter, I believe that when Congress placed this tax provision in the law back in 1926, it intended and expected that its newly enacted tax policy would accomplish two basic things: First, recognize that mineral extraction is the using up of a capital asset and, therefore, should not be taxed as income; second, encourage, through fair tax laws, the continuing and increasing exploration for and development of new mineral reserves to replace those currently being used up. In the case of oil and gas, as well as many, many other minerals, percentage depletion has proven eminently worthwhile in accomplishing these goals. It is no longer an experiment; it is a proven experience. Percentage depletion has proven its worth in helping to make available at reasonable prices adequate supplies of petroleum products to meet the needs of our national security and ever-growing economy.

I do not wish to unduly add to what has been said so many times about percentage depletion and just why it is a part of our tax structure. Nor do I intend to cite to you lengthy statistical data to support the principle and allowable depletion rates for the many, many minerals now subject to percentage depletion. This information is readily available for all to read and consider in the many studies by the Senate Committee on Finance and the House Ways and Means Committee.

I do not believe the Senate floor is the proper place to delve into the detailed operation of this or any other long-standing tax provision. We have a highly competent Committee on Finance, of which I am proud to be a member, which, if need be, is the proper and logical place for a thorough review of this very much misunderstood tax provision.

However, I firmly believe that in the light of all that has been said in the Senate during the past several years, we in the U.S. Senate have a duty and a responsibility to place this matter of percentage depletion in its proper perspective. One might ask the question, "Just why do we continue percentage depletion in the law?" The answer is obvious. It has successfully accomplished the task laid down for it when it was first written into the law in 1926. When Congress first established the present depletion rate for oil and gas, it recognized the need for an incentive for men to assume the extreme risks peculiar to petroleum exploration. Congress understood then, which remains a fact today, that geological, geophysical, and other predrilling work can only indicate possible oil and gas structures in the earth's crust. Only the drill can determine the actual existence of petroleum. The well-known odds against finding oil in the exploratory well still are 8 to 1, and the dry holes are just as costly to drill as producing wells. I should also point out that even in proven areas the driller of oil wells finds that one of every four wells drilled is dry.

In spite of the fact that this is a very risky industry and that the costs of finding and producing petroleum have grown in leaps and bounds, the oil industry is making available to the consuming public today its products at very reasonable prices. Possibly, without percentage depletion, our Nation today would not have available enough petroleum to meet our current as well as our future needs. However, even the critics of this tax provision agree that without it the price of oil and its products would be far greater than now prevail.

If the price of gasoline had increased since 1926, the year percentage depletion came into the law, in proportion to the increase in the Consumer Price Index, gasoline would cost today 65 percent more than it did in 1926. Instead, gasoline, the principal product from a barrel of crude oil, sells today, excluding State and Federal taxes, for about the same price that the consumer paid for a much lower grade product back in 1926.

In 1926 average hourly wages would buy 2.6 gallons of gasoline excluding taxes. Today an hour's average earnings will buy about 10 gallons of much better gasoline.

Stated simply, for more than 36 years, percentage depletion has helped the petroleum industry to make available to the American people the vital energy required to make more and better things for more people—at very reasonable prices. The consumer has been the chief beneficiary of this wise congressional tax policy, percentage depletion.

Madam President, in my own State of Kansas, which is not only a large producer of petroleum but a large consumer of petroleum, the reduction or elimination of percentage depletion would have a great adverse impact upon the producing branch of the industry as well as adversely affecting the consumers of petroleum in my State. Recent competent studies have shown that, to offset the elimination of percentage depletion, if we are to continue to maintain the necessary levels of exploration for and development of adequate petroleum supplies in this Nation, the service stations' price of gasoline would have to be increased approximately 5 cents per gallon in order to provide to the oil producer, after Federal income taxes, the necessary funds which would be denied him from his earnings if percentage depletion were eliminated. Thus, this would mean to the consumers of the State of Kansas an additional cost of approximately $54 million per year or approximately $90 additional cost to the average family in the State of Kansas.

Madam President, in these days when we hear so much about the need for economic growth and increased productivity, it becomes important to take a look at some of the basic ingredients for the strong economic growth of our Nation and its productivity.

Economic growth and productivity of the United States is based squarely on the use of inanimate energy. Today, more than 70 percent of the inanimate energy used in America is supplied by oil and natural gas with coal furnishing 24 percent and waterpower and atomic energy the balance.

With each barrel of oil or cubic foot of natural gas produced in the United States, there comes into being additional energy for use in meeting the ever-broadening national goal of more and better things for more people. Large consumption of petroleum at prices every citizen can afford has provided this Nation with the highest standard of living in the world.

Without question, one of the essential ingredients for meeting and winning the struggle to preserve our way of life is our Nation's growth. Sound growth is dependent upon abundant supplies of energy. Development of the energy age in America has been swift and dramatic, causing phenomenal growth in America during the past quarter of a century.

America has substituted petroleum energy for the work once largely performed by humans and animals because of the availability of this commodity at reasonable prices.

For more than 36 years a prime factor contributing to adequate supplies of petroleum at reasonable prices is the wise congressional tax policy—percentage depletion.

For more than a quarter of a century, the growth in the national income in the United States, as well as most other nations of the world, has paralleled the

growth in each nation's energy consumption. If we consider each gallon of energy produced and consumed—expressing total energy in terms of equivalent gallons of oil consumed each year—the national income of the nations of the world varies from country to country in the direct relationship of about $1 of national income per capita for each gallon of such energy consumption.

For example, according to the report of the Joint Congressional Committee on Atomic Energy, January 1956, in the Netherlands per capita consumption of energy was equal to 448 gallons of oil. National income per capita was $447. In the case of the United States—the highest energy consuming Nation in the world—per capita consumption of energy amounted to 1,711 gallons, and the national income per capita amounted to $1,857.

As growth and expansion of a nation is directly tied to growth and expansion of available energy supplies, it is axiomatic that our Nation's policies should be such as to encourage the exploration for and development of new petroleum reserves. For more than 30 years the 27½-percent depletion rate for petroleum has been the keystone of the many governmental policies designed to increase this Nation's petroleum resources. It has done its job well. It should be allowed to continue to do so.

Abundant low-cost energy is the foundation of a growing economy, and percentage depletion is the key to greater and greater supplies of such energy at reasonable costs to the consumer.

Percentage depletion fosters growth.

I could speak at length about how a reduction in the effectiveness in percentage depletion would adversely affect the economy of my State of Kansas. However, in the interest of time, I shall simply state that the oil-producing industry in Kansas is becoming more and more a marginal operation, and any adverse tampering with this would, to say the least, be a crushing blow to the economy and welfare of my State. This would, no doubt, be the case in the majority of the other 30 oil-producing States.

I emphasize that aside from the harm that could result to the consumers and oil producers in my State from any cut in percentage depletion rate, there is another and possibly a bigger issue, and that is how would the tampering with this long-established congressional policy affect our basic national resources policy?

In September 1960 President Kennedy stated aptly the basic consideration involved in the depletion principle when he declared—

> The depletion allowances which affect over 100 items should be considered primarily as a matter of resources policy and only secondarily as a tax issue.

President Kennedy stated further that—

> Its purpose and its value are first of all to provide a rate of exploration, development and production adequate to our national security and the requirements of our economy. * * * The oil depletion allowance has served us well by this test.

All too often the critics of percentage depletion ignore this sound observation and rather contend that a reduction in percentage depletion is necessary because Government temporarily, at least, might collect more revenue if depletion were eliminated. This understood rationale would, of course, have far reaching and undesirable impact throughout our economy.

One of the most sound analyses of the need for and merits of percentage depletion was contained in an editorial paper in the August 1962 issue of the Independent Petroleum Monthly by Minor S. Jameson, Jr., executive vice president of the Independent Petroleum Association of America. I quote in part from this fine editorial:

> Percentage depletion is ingrained in the economic and financial processes of the petroleum industry. It has been for 36 years. Its change or elimination would have repercussions of vast proportion, all detrimental. These adverse results could be factually presented only with great detail, but they can be summarized as follows:
>
> 1. A flight of capital from the industry and disruption of investments on an almost panic scale. There would be chaos during an unprecedented adjustment in industry financial processes.
>
> 2. Sellouts and mergers among smaller industry units would be greatly accelerated with a resulting increase in corporate concentration in the production and control of petroleum.
>
> 3. Contraction of the industry would lead to greatly reduced levels of exploration, drilling and development with an inevitable gradual decline in availability of domestic petroleum.
>
> 4. Severe impairment would occur in the economies of the thousands of oil communities throughout 33 producing States.
>
> 5. Through shrinking of the largest of the mineral producing industries, there would follow a reduction in the overall base for local, State and Federal tax revenues.
>
> 6. Expanding military requirements for petroleum fuels, one of the larger single expense items of the Federal Government, would be filled only at a much greater cost.
>
> 7. Reduced industrial activities would be followed by reduced markets for steel, other basic materials, and hundreds of supplying and servicing organizations sustained by petroleum production.
>
> 8. Capital expenditures would be diverted in large scale to foreign areas with a compounding of our adverse balance-of-payments situation.
>
> 9. With economic growth directly related to energy use, principally low-cost petroleum fuels, economic expansion would be impeded.
>
> 10. Unquestionably there would be less crude oil and gas found and developed, or adequate domestic supplies would be maintained by a more concentrated industry at greater cost and much higher prices to consumers. The alternative would be greater dependence on foreign oil. Neither alternative would be in the public or national interest.
>
> These are some of the fundamentals which cannot be ignored in consideration of petroleum tax policy. Some would occur immediately, others if depletion provisions were reduced or eliminated. Certainly, as a matter of national policy, it would be inconsistent to precipitate such an upheaval in so basic an industry at a time when economic progress and growth has such priority and urgency.

Madam President, as I stated in the beginning, this important tax policy is one that should not be subject to emotional and unfounded attacks on the Senate floor; but rather any review of how it works and why we have it in the law should be considered only after a thorough and comprehensive study by the committee of Congress charged with the responsibility of weighing all the factors involved in recommending to this body changes or additions to our Nation's tax laws.

Madam President, I am convinced that, when thoroughly reviewed and considered in this manner, percentage depletion will once more be overwhelmingly approved by Congress.

Mr. TOWER. Madam President, will the Senator from Kansas yield?

Mr. CARLSON. I yield.

Mr. TOWER. Is the Senator from Kansas aware that sometimes the depletion allowance is referred to as a subsidy, but that under no definition of the term could the depletion allowance be regarded as a subsidy, because actually it is the forgiveness of a tax to a man who is actually selling his capital assets, for once oil is sold, it is gone and is not replaceable? As the distinguished junior Senator from Oklahoma said a while ago, it is not possible to go out and buy a new oil well.

Mr. CARLSON. The depletion allowance is given because a capital asset is being destroyed or being used as it is taken out of the ground.

Madam President, I continue to emphasize the need for a depletion allowance.

Mr. McGEE. Madam President, will the distinguished Senator from Oklahoma yield 5 minutes to me?

Mr. MONRONEY. I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. McGEE. Madam President, in no area of the country is the question of oil depletion allowance of more vital concern than in Wyoming. Because of the particular attributes of the geology in our area, exploration for oil is extremely costly and a much less productive venture. Yet because the industry has been willing to take chances, it has been possible to bring in large reserves of oil to serve the national interest.

I think this is the real point at stake in this particular operation: There is a tendency among some who, I am sure, do not understand the situation, to call the depletion allowance an evasion or a loophole when, in fact, it is only a device that is determined upon to encourage further exploration activities. The oil industry in my State would go out of business very quickly if it did not have this further inducement, because of the cost of exploration for oil.

Madam President, America's position in history has been greatly bolstered by the fact that it is a nation rich in natural resources. We have been abundantly blessed with mineral wealth—iron ore, gold, silver, copper, bauxite, to name a few such treasures, plus the vital energy fuels—oil, coal, natural gas, and, more recently, uranium. But having these minerals in the ground means, in itself, nothing to national progress. Other lands with vast mineral resources have remained backward and poverty-ridden.

Mineral wealth of itself is meaningless until there are people with the initiative,

the courage, the means, the vision, and the enterprise to get these raw materials out of the ground and make them available to their fellow citizens.

For example, there are vast pools of oil in this country over and above the nearly 39 billion barrels of proved reserves—known reserves—of crude oil and natural gas liquids. These additional reserves, still to be discovered and to be made available for future generations, are variously estimated to run to hundreds of billions of barrels; the recent National Fuels and Energy Study, prepared by a special staff for the Senate Committee on Interior and Insular Affairs, places the figure at somewhere between 225 and 300 billion barrels.

But this oil that is now in the ground could stay there, and conceivably future generations of Americans could suffer all the deprivations of a fuel famine—unless venturesome people pooled the money and the skill to find these reserves in their hiding places thousands of feet in the earth.

The odds are about 50 to 1 against commercial success in wildcat drilling for crude oil, and are only a bit better in the hunt for oil and gas combined. Furthermore, no one is guaranteed even average luck—that he will make a commercial find if he drills 50 wildcat wells. Many an oilman has drilled his way to the poorhouse with a run of hard luck that went even beyond the severe law of averages in wildcatting.

The purpose of percentage depletion is to make the hunt for new oil possible even in the face of these adverse odds. Without this tax provision, there would be an inevitable slackening in the search for new reserves, with the consequence that consumers would feel the pinch a few years hence—and this country could be faced with a very grave crisis.

There is no such thing as percentage depletion in Russia, because in that country the Government owns all the oil lands and oil-finding equipment. The Government does the wildcatting, and it also makes the decision as to what is to be done with the oil. The Soviet Government has already decided that it is uneconomic for average citizens to own automobiles—and for that reason Soviet policy deliberately prevents mass ownership of automobiles such as we have in the United States. This leaves the Government free to exploit its national oil resources by using oil exports as a weapon in the economic cold war.

Our domestic oil industry is faced with this Russian challenge, and so are the oil industries of other free world nations—many of them operated by or affiliated with American companies. If any amendment that tinkers with the depletion rate is enacted, it will directly impair the ability of our free-enterprise domestic oil industry and its foreign affiliates to compete effectively against the government-controlled Soviet oil enterprise, and we shall be handing Russia a trump card that it is sure to play in the cold war.

If this amendment should be adopted, would its sponsors be content with their victory and would they end their attacks on the percentage depletion provision? It is certain that they would not. One victory like this would only whet their appetities for more. It would spur on the attack against this provision in the law. And it should be understood by all who are going to vote on this amendment that the real issue is not confined by any means to percentage depletion as it applies to oil and gas.

The real issue being disputed today is percentage depletion as it applies to some 100 or so mineral industries—practically every type of mineral produced in this country today. All these industries are the real targets for this attack, with oil and gas just positioned in the bull's-eye. A Senator who votes for this amendment should keep in mind the extent to which he could be jeopardizing the future of the leading mineral industries of his home State, whether his State produces lead, zinc, copper, iron ore, granite, asbestos, or whatever.

Other segments of the extractive industry affected by the depletion allowance consist of 100 or so other minerals that come under the very same tax provision—though at varying rates—which it is being proposed we reduce for oil and natural gas. Should this amendment succeed, it will be used as a lever to pry loose the depletion rates all these other minerals now receive. The only question is which mineral would be next to suffer a cut in its depletion rate?

Would it be uranium? I ask this question with some anxiety because my State happens to rank second, behind New Mexico, in the production of this vital mineral—which now receives a 23-percent rate. Would the next mineral be fluorspar, also entitled to a 23-percent deduction, or tripoli—with 15 percent? Illinois, for example, happens to lead the Nation in the production of both these minerals, and it is an important producer of bituminous coal as well as a significant contributor to the Nation's supply of oil and gas.

Perhaps zinc would be singled out, and that would be bad news for Tennessee because that State happens to be the leader in producing this mineral, with a 23-percent deduction helping to encourage the development of that important industry there.

Perhaps the people of Vermont should be alerted to the danger threatening their asbestos industry. The 23-percent depletion rate for this mineral would be a sure victim of any massive campaign to eradicate or slash to pieces this provision in the Nation's tax laws.

If the deduction for oil and gas is a loophole, then so are these identically based deductions for other minerals; and if the rate for oil and gas is to be reduced, proportionate reductions would necessarily have to be made for these other minerals to restore the balance. But if percentage depletion is a loophole—in the common meaning of the term—then a 20-percent rate or a 15-percent rate can no more be justified than a 27½ percent or 23 percent. If depletion is wrong in principle, changing the rate cannot possibly make it right.

But, of course, the hard fact is that these provisions are not loopholes—none of them. Loophole has merely become an inaccurate label. To the average person on the street, the term "loophole" suggests an evasion of the law. It implies taking advantage of some opening never intended by the framers of a statute. We know that this is not the case with the percentage depletion provision, as it applies to oil and gas or to uranium or to zinc or gold and silver or any other mineral.

The percentage depletion provision is clearly authorized by law. It was duly enacted by Congress in the case of oil and gas and in the case of every other mineral included under the terms of that provision. There is no question whatsoever of its being a loophole. It is a deliberate, express, and clearly intended provision of the tax code.

Was the purpose of this provision—as its opponents insinuate—to give some special advantage to the few? Not at all. The intent of Congress when it enacted this provision with respect to oil and gas was to remove tax obstacles that might have the effect of hindering the high-risk and costly exploration for and development of these vitally needed energy fuels. Other minerals—coal, uranium, zinc, lead, asbestos, gypsum, to name just a few—are included under this provision for exactly the same reason.

Congress recognized that the person engaged in an extractive industry—whether he happens to be a producer of oil or a producer of zinc or of some other mineral—has peculiar operating conditions not experienced by, let us say, the operator of a dry goods store or an auto laundry. The mineral producer—whether he is producing oil or iron ore—is depleting the resource that constitutes his capital.

Every time the oil producer takes a barrel of oil out of his well, he is one barrel closer to going out of business. Every time the mineowner takes out a ton of ore, he is in the same position. Both have to find replacement reserves, and that is not easy.

In the case of oil and gas, of every 100 exploratory wells drilled in the search for a new field, only 3—on the average—will make a commercially successful discovery.

It would be sheer nonsense to tax a business that is up against these odds on the same basis as the operator of a candy store—who has his own problems, it is true, but not this kind of problem—would be taxed.

Abraham Lincoln used to be fond of quoting a riddle that went: "If you call a tail a leg—how many legs does a cow have?" The answer was "Four," because calling a tail a leg does not make it one.

And no matter how much the opponents of the present depletion law for oil and gas may pretend that there is really no practical difference between the business of wildcatting for oil and gas and the business of operating a barbershop, there really are fundamental differences; and if our tax laws refuse to take those differences into due account, our tax laws will not make sense.

The opponents of percentage depletion seem to be saying, "We don't agree with this provision. We think it is dead wrong. But we are not calling for its repeal. We just want to change it a little.

We want to cut it down some, for oil and gas."

Suppose they succeeded in what they want. Suppose they were able to get even a few percentage points deducted from the rate of this provision as it applies to oil and gas. Is it not plain that such a change would be bound to affect the petroleum industry—already going through a period of distress.

The oil industry would be faced with a grim choice between two highly undesirable courses of action. One course would be to make substantial increases in the price of its products—which would be difficult in the present supply-demand situation. The other possible course would be for the oil industry to curtail drastically its drilling program for the present and for an indefinite future, depending on proved reserves already in the larder.

Such a decision, which would be the almost inevitable course if this amendment were adopted, would have drastic consequences for my State and for every one of the other 31 States with oil and gas production. Over the long haul, the Nation would be badly hurt; but the economies of these States would suffer the first punishing effects of this unwise and shortsighted decision. A few examples of what the oil industry now means to Wyoming will indicate how important this matter is to us.

The petroleum industry provides employment to some 12,000 residents of Wyoming, which means that 1 of every 8 members of the nonagricultural labor force earns his livelihood in the oil business.

The petroleum industry payroll in Wyoming runs around $66,500,000 annually, which is important money for us, more than 8 percent of the total personal income of the State.

There is now oil or gas production in 21 of the 23 counties of my State, with nearly half of Wyoming's more than 62 million acres under lease for oil production or exploration. Much of this land is not productive now, but is in line for future testing to determine its potential—if any. It is estimated that there are some 28 million acres in this category—presently unproductive land, under lease for future exploration. The owners of this land are now hopeful; but enactment of this amendment would cruelly dash their hopes, because it would discourage the kind of high-risk ventures that alone can determine whether their land will become oil-producing property.

Wyoming now ranks fifth in oil production, but this does not mean that oil is easy or inexpensive to find there. For many years my State held the national record with a well, completed in 1949, that went down 20,521 feet—and turned out to be a worthless dry hole—which cost nearly $1.5 million. This record stood until 1953, when it was supplanted by a California well—another dry hole—that went almost a thousand feet deeper. That record, in turn, has since been surpassed; and the current deepest well titleholder is a 1958 Texas wildcat that went down 25,340 feet—and turned out to be another dry hole.

Taxes are not paid on a dry hole; that is true. But, the driller does not get back his money, either. A very great amount of money can be spent in drilling those holes, too—an average of $900,000 per well for the deep ones in my State.

Last year, of the 391 wildcat wells drilled in Wyoming, 359 were dry holes. In Laramie County, Wyo., there was a 100-percent dry hole record—one wildcat well drilled, one dry hole resulting from it. But they had to go down more than 7,500 expensive feet before they knew the well was destined to be an unproductive dry hole.

To a man unfamiliar with the problems of oil and gas exploration, this dry-hole problem may seem very remote and academic. But out there in the oilfields it is not remote; it is a fact of life. And a simple fact of economics—not classroom economics, but real life economics—is that people will not invest their money in ventures of this sort unless they stand to get some tax consideration if they succeed in spite of the heavy odds against them. If they take the risks and the tax collector walks off with all the gravy, they will not take those risks any more—and, I may add, there will not be so much gravy for the tax collector, or, in years to come, enough oil for the American people. The issue is as simple as that.

Since production started there 68 years ago, Wyoming has produced more than 2 billion barrels of crude oil. It still has more than 1⅓ billion barrels of proved crude reserves. We know that there is much more oil thousands of feet deep in the Wyoming earth, but people have to drill down there to find it, and that means taking big chances. How many people will have either the courage or the means to keep up the hunt if the already discouraging odds against success are further magnified by a slash in the depletion rate?

When Congress enacted this depletion law back in 1926, it was not meant to be any favor to oil producers or investors. It is not any favor to them now. It is a favor to the American people. It has enabled Americans to enjoy an abundance of the energy fuels that have given us the means to become the world's foremost industrial power, with unrivaled living standards and invincible military might.

Reducing the rate of percentage depletion would have the direct effect of discouraging the search for new oil reserves needed to meet future requirements, with the result that our energy resources would soon dwindle and progress would lag. This would be an undesirable development at any time. It could be suicidal when we are admittedly engaged in a desperate race with Russia, and should be intent upon building up our economy, rather than tearing it down—on increasing, rather than undercutting, our resources for defense.

Oratory does not alter facts; and the facts—not name calling or emotional responses—are what should influence us. The present rate of percentage depletion for oil and gas has served this Nation very well, indeed. So have the rates of this provision applying to other minerals essential to our peacetime economy and national defense—uranium, iron ore, sulfur, copper, nickel, zinc, and lead for some examples. This is not the time to be stampeded into action which would lead to later repentance and regrets—and recriminations, too. Any proposal that would impede our Nation's resource development and future productivity by reducing the depletion rate for oil or any other mineral deserves overwhelming rejection as contrary to the public interest.

I would like to commend the junior Senator from Oklahoma [Mr. MONRONEY], who, as a man who for some 24 years has represented one of the greatest oil States in the Union, has a deep understanding of the purposes and the need for the depletion allowance. In July of this year at an oil industrial conference held at Dallas, Tex., Senator MONRONEY gave to that group an outstanding address on the subject of the oil depletion allowance and the great need for its continuance.

The junior Senator from Oklahoma pointed out, as I have attempted to do here today, that in States where oil is not considered a vital ingredient of the economy, the basic reasons for the depletion allowance and the national interest in its continuation are practically unknown. In Senator MONRONEY's words:

> To the uninformed, it (meaning depletion) has become a symbol of tax favoritism, rather than an instrument that has guaranteed an unfailing and unlimited petroleum supply in two World Wars and in the great industrial and population expansion that followed them.

I sincerely hope, Madam President, that the Members of this body, who have the responsibility to represent not only their individual States, but the national public interest, as well, will agree with me that the mineral depletion allowance is not only necessary but is absolutely essential to the economic well-being and security of the United States.

Mr. ROBERTSON. Madam President——

Mr. KERR. Madam President, I ask unanimous consent that 2 minutes be allowed for questions by the Senator from Virginia [Mr. ROBERTSON].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTSON. Madam President, before the final action on the bill is taken, I wish to raise a question in regard to entertainment expenses—namely, whether, in that connection, partnerships are to be treated on the same basis as corporations. Yesterday we discussed this matter generally, but this particular point was not covered in detail.

So I should like to ask the Senator from Oklahoma [Mr. KERR] this question: Is the exception to entertainment expense disallowances in section 4(a) of the act intended to apply to partnership business meetings—meetings of its employees or its partners, or both?

Mr. KERR. The exception in section 274(e)(6) is intended to include expenses incurred by a partnership which are directly related to business meetings of its employees, or its partners, or both. Partners are agents, and agents are specifically mentioned in the language of the bill.

Mr. ROBERTSON. I had assumed that the committee intended that meaning; but inasmuch as the language of the bill itself was not too clear, I am very glad to have this legislative history made in connection with this matter.

Mr. KERR. I thank the Senator from Virginia.

Mr. MONRONEY. Madam President, before I yield back the remainder of my time, may I ask how much time we have remaining.

The PRESIDING OFFICER. Four minutes.

Mr. MONRONEY. I yield that time to the distinguished Senator from Arkansas [Mr. FULBRIGHT].

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 4 minutes.

Mr. FULBRIGHT. Madam President, I regret that this amendment is being offered again.

As the Senate knows, we had no adequate hearings on this proposal. Much that could be said about it cannot be developed here on the floor.

My State is not one of the major producers of oil; it produces only about 100,000 barrels a day. Thus, oil is not as important to Arkansas as it is to the major producing States, such as Oklahoma and Texas.

However, attention should be called to the greater difficulty in obtaining new sources of oil. Certainly, we should not forget the implications of such an amendment. When taken up on the floor, it is impossible to have due consideration given to the long-term ability of our country to supply its own oil needs in case of war or other disruption of the supply of oil.

We recall that not too long ago great difficulties were encountered in Europe, as a result of the closing of the Suez Canal.

We can imagine the revolutions which could easily develop and disrupt foreign supplies of petroleum. Very frequently we hear about the possibility of political upheaval in parts of Latin America from which we now import substantial amounts of oil. It would be very inappropriate and inadvisable, it seems to me, to reduce this depletion allowance under these circumstances, for, in effect, it would stop or would slow down to a very great extent the explorations for new supplies of oil in the United States and leave us totally dependent on foreign sources.

It is no news to this body or to the country that each year now, for a long time, it has become more and more difficult to find new supplies of oil. We are using oil much more rapidly than we are finding new reserves. The great reserves which have been discovered in recent years have not been on the North American continent, and certainly not in the United States. Primarily, they have been in the Middle East and in north Africa. As a matter of national defense and national security, this matter is much too important to be passed upon rather casually on the floor of the Senate, without having careful consideration, in hearings before the committee, of all of the country's interests which are involved.

It will be said that hearings have been held on this matter in the past. That is true; but conditions have changed very rapidly in recent years, especially in the field of oil. Therefore, I think those hearings are obsolete and the record developed no longer useful.

We read daily that one of the principal weapons of the Russians, in their attempts at economic penetration of the free world, is their use of oil. Of course the production of oil under the circumstances which exist in the Soviet Union is quite different from its production in our country. The Russians can, in effect, use oil as a weapon, regardless of its cost, where as under our democratic, free-enterprise system these companies cannot replenish their supplies without the depletion allowance.

I do not wish to repeat what has already been said by the junior Senator from Oklahoma [Mr. MONRONEY] and other Senators in regard to the expense incurred by the oil industry in its efforts to explore for and to find new reserves. He has already pointed out that every year the industry has spent a great deal more than the depletion allowance on its search for oil.

Another vital consideration, it seems to me, is the stabilizing effect of the depletion allowance. I do not think it is the only reason, but it has certainly contributed to the fact that the price of oil today is virtually the same as it was nearly 40 years ago.

So, Madam President, for all these reasons, I hope the amendment will be rejected.

The PRESIDING OFFICER. The time yielded to the Senator from Arkansas has expired.

Mr. WILLIAMS of Delaware. Madam President, how much time remains available to me?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. WILLIAMS of Delaware. I shall not need all of that time.

I merely wish to make a correction of the RECORD. It was said that the amendment has not received committee consideration. They are wrong. I call attention to the fact that the amendment was submitted in the normal manner as an amendment to the pending bill; and it was before the Finance Committee, of which I am a member; and testimony was taken, insofar as any member of the industry wished to be represented or to be heard and the amendment was offered in committee.

The amendment was offered in executive session in the committee; although the amendment was not approved as part of the bill, I wish to point that out to refute the argument that the amendment was not properly considered or that the industry did not have a proper chance to present its case.

It is argued——

Mr. LONG of Louisiana. Madam President, will the Senator from Delaware tell me whether the Secretary of the Treasury testified for it?

Mr. WILLIAMS of Delaware. No, he did not endorse it.

Mr. LONG of Louisiana. Did anyone testify for the amendment?

Mr. WILLIAMS of Delaware. Yes. Some were in favor of the amendment; some were opposed to it. The Senator is a member of the committee. I would not say that this proposal did not have just a little controversy; nevertheless, the argument that there was no opportunity for hearings on it cannot be supported.

The amendment does not propose to take away the oil depletion allowance in its entirety. I may say, in all fairness, I recognize that there is merit to the principle of depletion allowance. If this were a proposal to take away all the 27½-percent depletion allowance, I would not be in favor of it. On the other hand, there is nothing sacred about the 27½-percent figure. That rate percentage was fixed in 1926, when the corporate tax rate was less than 20 percent, and the top individual tax rate was around 15 percent. The effect of a 27½-percent depletion allowance is far different under those rates than when there is a ceiling of about 90 percent on individual tax rates and a 52-percent tax rate on corporations. The higher the tax rates go, the greater the significance of the 27½-percent depletion allowance.

Let me emphasize again that I am not offering the amendment as a reflection on the oil industry. There is no Member of the Senate who has greater respect for the oil industry than I do. I recognize it as one of the great industries of the country, and one which has made a great contribution. On the other hand, it is no more essential to our national welfare than are other industries. The oil industry would be of no use without the steel industry. Neither of those industries would be of any use without agriculture. One could name almost any industry without which we could not do. So to single out one industry and say America could not survive without it is not a valid argument. One could make make the same argument about many of the other industries.

To argue that the depletion allowance merely means that the man investing his capital is getting back his investment is not valid, because in addition to the depletion allowance, the oil industry gets the normal depreciation rates that all other industries get. In addition to the depreciation allowance, it receives this depletion allowance on gross sales, which has no connection with depreciation. In many cases, a member of the oil industry can recover his investment, not once, twice, or three times, but over and over again, up to as many as 90 or 100 times the original investment. There is no limit as to the number of times a member of the oil industry can recover his original investment. Depletion is not in the same category as depreciation.

I give the industry credit for providing many jobs, but so do other industries in America provide jobs. My argument is that with the cost of defense amounting to $50 billion a year, at a time when the total budget for running the Gov-

ernment is around $90 billion, here is an industry which in my opinion is not paying its proportionate share for the costs of defending and running the Government. The $50 billion defense effort is to protect property investment as well as the lives of the people of America. Here is an industry which represents a major part of the investment of America. Why should not it pay its proportionate part of the cost of Government, instead of having its tax rate frozen at a rate fixed in 1926.

Under this amendment we are trying to adjust this matter on a basis so the industry can pay its proportionate part of the cost of operating the Government.

I want to emphasize again that this is not punitive legislation, because I respect the oil industry as much as does any Member of this body. But I am not alone in saying that this industry is one which needs attention insofar as the tax laws are concerned. The question has been before the committee time and time again.

I wish now to read from the Democratic platform of 1960. I think it well that we refresh the memory of Members on the other side of the aisle. I find this in the Democratic platform on which President Kennedy was elected:

> Third, we shall close the loopholes in the tax laws by which certain privileged groups legally escape their fair share of taxation.
>
> Among the more conspicuous loopholes are depletion allowances which are inequitable.

This puts the whole Democratic Party on record.

Mr. McGEE. Madam President, will the Senator yield?

Mr. WILLIAMS of Delaware. I will yield in just a minute. I would like to finish my remarks first, because I am on limited time, I have already yielded a substantial part of my time to the opponents. If I may complete my statement, I will yield.

I would like to cite another authority on the need for correction of the depletion allowance. I quote this time a former President of the United States, in a message which he sent to the Congress. This can be found in the CONGRESSIONAL RECORD, volume 96, part 1, pages 770 and 771. It was a message sent by President Harry Truman, and I read from the President's message:

> I know of no loophole in the tax laws so inequitable as the excessive depletion exemptions now enjoyed by oil and mining interests.
>
> Under these exemptions, large percentages of the income from oil and mining properties escape taxation, year after year. Owners of mines and oil wells are permitted, after deducting all costs of doing business, to exclude from taxation on account of depletion as much as half of their net income. In the case of ordinary businesses, investment in physical assets is recovered tax free through depreciation deductions. When the original investment has been recovered, a depreciation deduction is no longer allowed under the tax laws. In the case of oil and mining businesses, however, the depletion exemption goes on and on, year after year, even though the original investment in the property has already been recovered tax free, not once but many times over.
>
> Originally introduced as a moderate measure to stimulate essential production in the First World War, this special treatment has been extended during later years. At the present time these exemptions, together with another preferential provision which permits oil-well investment costs to be immediately deducted from income regardless of source, are allowing individuals to build up vast fortunes, with little more than token contributions to tax revenues.
>
> For example, during the 5 years, 1943–47, during which it was necessary to collect an income tax from people earning less than $20 a week, one oil operator was able, because of these loopholes, to develop properties yielding nearly $5 million in a single year without payment of any income tax. In addition to escaping the payment of tax on his large income from oil operations, he was also able through the use of his oil tax exemptions to escape payment of tax on most of his income from other sources. For the 5 years his income taxes totaled less than $100,000, although his income from nonoil sources alone averaged almost $1 million each year.
>
> This is a shocking example of how present tax loopholes permit a few to gain enormous wealth without paying their fair share of taxes.
>
> I am well aware that these tax privileges are sometimes defended on the grounds that they encourage the production of strategic minerals. It is true that we wish to encourage such production. But the tax bounties distributed under present law bear only a haphazard relationship to our real need for proper incentives to encourage the exploration, development, and conservation of our mineral resources. A forward-looking resources program does not require that we give hundreds of millions of dollars annually in tax exemptions to a favored few at the expense of the many.

I have just read from President Truman's message as sent to the Congress under date of January 23, 1950.

This amendment before the Senate, in my opinion, is a very moderate approach, making a long overdue correction in our existing tax laws. Time and time again we have changed the rates at which other taxpayers have to pay taxes. I see nothing sacred about the 27½ percent depletion rate fixed for this particular industry.

I repeat again that this is not an effort to whittle the depletion allowance down to nothing. I recognize the equity in the principle of some depletion, but there is nothing sacred about a 27½ percent rate. I think the time is long overdue when this industry should pay its proper proportion of the operating costs of Government.

Mr. TOWER. Madam President, will the Senator yield me 2 or 3 minutes?

Mr. WILLIAMS of Delaware. Madam President, how much do I have left?

The PRESIDING OFFICER. The Senator from Delaware has 14 minutes remaining.

Mr. WILLIAMS of Delaware. I yield 3 minutes to the Senator from Texas.

Mr. TOWER. Madam President, the distinguished Senator from Delaware has quite properly pointed out that the oil industry should bear its share of the tax burden in supporting our gigantic national defense effort. It should be noted that without the 27½-percent depletion allowance there would not be the incentive to produce the wealth which results from oil exploration and production. Actually, the 27½-percent depletion allowance, rather than denying to the Government a source of revenue, has stimulated the production of new sources of revenue. I would predict quite freely that if the 27½-percent depletion allowance were reduced substantially it would so discourage a sufficient number of people from engaging in this great and vital defense industry as to result in reducing sources of revenue to the extent that there would be a loss of revenue to the Government of the United States, to say nothing of the loss for many State and local governments throughout the United States.

This is not a tax loophole. It is not a subsidy. It is simply a tax allowance because of the fact that when a man sells a barrel of oil he is selling a capital asset. The average cost or production per barrel of $2.40 is three times greater than the 76 cents allowed under the depletion allowance per barrel.

Mr. KUCHEL. Madam President, will the Senator yield for a question?

Mr. WILLIAMS of Delaware. I yield to the Senator from California.

Mr. KUCHEL. Will the Senator tell his colleagues the rationale behind that part of the amendment which has to do with reducing the highest surtax rates?

Mr. WILLIAMS of Delaware. Yes. One of the arguments made in connection with the depletion allowance—and it is a very valid argument—is that under present rates, since the Government takes as much as 91 percent of a man's income, with an overall limitation of 87 percent, a man who is already in that tax bracket would not put out his money on a gamble wherein he can keep only 13 percent. Therefore as we reduce the depletion rate we propose to lower the individual rates.

There is a gamble involved in the oil-producing business. I recognize that. A man in the 87-percent tax bracket would not gamble, if he could keep only 13 percent of that which he made. If we reduce the depletion allowance without some correction in other rates, we would hinder the exploration for oil.

That is the reason I have coupled the two proposals together. Let us reduce the depletion allowance and also reduce the overall income tax rates.

If a man could keep 40 percent of that which he made, it would pay him to take the risk. In addition, he would have the remaining 20-percent depletion allowance.

At the same time the Government would pick up an additional $120 million of revenue, at a time the money is needed. I do not think all of the money should be passed on.

Mr. KUCHEL. Has my colleague, by his amendment, restricted the reduction of surtax rates to the 87-percent rate alone?

Mr. WILLIAMS of Delaware. That is the only way to approach the problem.

Mr. KUCHEL. What happens with respect to the rates now existing in the tax law, lower than 87 percent? Would they remain the same?

Mr. WILLIAMS of Delaware. They would remain the same, down to 60 percent.

Mr. KUCHEL. They would remain the same, down to 60 percent?

Mr. WILLIAMS of Delaware. Yes.

Mr. KUCHEL. What would happen to those surtax rates under 60 percent, as presently written in the tax law?

Mr. WILLIAMS of Delaware. Nothing.

Mr. KUCHEL. That is all.

Mr. WILLIAMS of Delaware. There was a suggestion made that instead of applying it all to the rates over 60 percent, we should raise the personal exemption from $1,200 to $1,500 on those over 65. I should be glad to consider offering the amendment in such a way, if the Senator would support it.

Mr. KUCHEL. I shall have the honor to study anything my able friend from Delaware may bring forth. The only way I know how to participate in the legislative process is on the basis of what is pending and to deal with it, up or down. On that basis, I have the honor to disagree with my friend.

Mr. WILLIAMS of Delaware. I understand. I appreciate the position of my good friend from California.

I think this is a good way to approach the problem.

Madam President, I am ready to yield back the remainder of my time.

Mr. MANSFIELD. Madam President, I move to lay on the table the amendment offered by the Senator from Delaware.

Mr. WILLIAMS of Delaware. Madam President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Montana [Mr. MANSFIELD] to lay on the table the amendment offered by the Senator from Delaware [Mr. WILLIAMS], for himself and other Senators. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN (when his name was called). Madam President, on this vote I have a live pair with the senior Senator from Mississippi [Mr. EASTLAND]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mr. SALTONSTALL (when his name was called). Madam President, on this vote I have a pair with the senior Senator from Washington [Mr. MAGNUSON]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Mississippi [Mr. EASTLAND] and the Senator from Washington [Mr. MAGNUSON] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], the Senator from Wyoming [Mr. HICKEY], and the Senator from Missouri [Mr. SYMINGTON] are necessarily absent.

I further announce that if present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], and the Senator from Wyoming [Mr. HICKEY] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. MURPHY] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. MURPHY] would each vote "yea."

The result was announced—yeas 57, nays 30, as follows:

[No. 244 Leg.]

YEAS—57

Allott	Fulbright	McGee
Bartlett	Gruening	Metcalf
Beall	Hartke	Miller
Burdick	Hayden	Monroney
Bush	Hickenlooper	Moss
Butler	Hill	Mundt
Byrd, W. Va.	Holland	Pearson
Cannon	Hruska	Randolph
Capehart	Johnston	Robertson
Carlson	Jordan, N.C.	Russell
Chavez	Jordan, Idaho	Smathers
Cooper	Kerr	Sparkman
Cotton	Kuchel	Stennis
Curtis	Long, Mo.	Talmadge
Dirksen	Long, Hawaii	Thurmond
Dodd	Long, La.	Tower
Ellender	Mansfield	Williams, N.J.
Engle	McCarthy	Yarborough
Fong	McClellan	Young, N. Dak.

NAYS—30

Aiken	Humphrey	Pastore
Boggs	Jackson	Pell
Byrd, Va.	Javits	Prouty
Carroll	Keating	Proxmire
Case	Kefauver	Scott
Church	Lausche	Smith, Mass.
Clark	McNamara	Smith, Maine
Douglas	Morse	Wiley
Gore	Muskie	Williams, Del.
Hart	Neuberger	Young, Ohio

NOT VOTING—13

Anderson	Ervin	Murphy
Bennett	Goldwater	Saltonstall
Bible	Hickey	Symington
Bottum	Magnuson	
Eastland	Morton	

So Mr. MANSFIELD'S motion to lay on the table the amendment offered by Mr. WILLIAMS of Delaware was agreed to.

Mr. KERR. Madam President, I move that the action of the Senate whereby the amendment was tabled be reconsidered.

Mr. LONG of Louisiana. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERR. Madam President, one of the provisions on which the Committee on Finance worked the longest and the hardest has to do with the taxation of foreign corporations, domestically owned or controlled. I wish to make a few comments as legislative history to augment the language in the committee report in making the intent of the committee clear.

There has been some comment as to the workings of the minimum distribution escape valve to section 12 when an election is made on a consolidated basis. The report of your committee on pages 271 and 272 contains two examples—examples 1 and 2—to show how foreign tax credits may have to be allocated on a consolidated basis when only a minimum distribution is made and it is not made pro rata from the foreign subsidiaries being consolidated.

I have discussed this matter with the Treasury Department and they agree with me that it would be desirable to provide some further illustrations and examples of how the minimum distribution escape valve is intended to operate on a consolidated basis. Example 3 below demonstrates that for purposes of computing the available foreign tax credit, a domestic corporation electing the minimum distribution section on a consolidated basis utilizes the regular rules for computing foreign tax credit, with no allocations of its credits, provided that its actual distribution is such that the combined U.S. and foreign taxes which result, produce an overall effective rate which is equal to, or above, the overall effective rate that would be produced if the taxpayer had received a minimum distribution pro rata from all of the foreign subsidiaries included in the consolidation. If no minimum distribution is required because the effective foreign rate is 47 percent or higher, then the normal tax credit rules remain applicable with no allocation of credits.

Where the actual distribution does not result in an overall effective rate equal to or above the overall effective rate that would have been produced by such a pro rata minimum distribution from all of the foreign subsidiaries included in the consolidation, then the domestic taxpayer still continues to use his regular rules for computation of foreign tax credit, except that a portion of the foreign tax credits will here be required to be allocated on a consolidated basis. The allocation that is required is only to the extent needed to bring the overall rate of United States and foreign taxes up to the rate that would have been produced by a minimum distribution on a pro rata basis. See examples 1 and 2 in committee report and example 4 below.

The method of computation when a branch is involved and an election has been made to treat the branch as a foreign subsidiary is provided by example 5 below. This example shows that the taxable income of the branch is utilized in determining the foreign effective rate of taxation. Further, when the branch is entitled to deductions, like that provided Western Hemisphere trade corporations, this is reflected by a reduction from taxable income.

Thus, what the examples in the committee report and the further examples attached to this statement show is that

the authority given the Secretary of the Treasury or his delegate in section 963(f) to prescribe regulations for the determination of the amount of foreign tax credit is to allocate the normal available foreign tax credit so as to produce an overall effective rate of taxation equal to the overall effective rate that would be produced by a pro rata minimum distribution pattern. If the taxpayer chooses some other pattern for distribution, no allocation will be made as long as the overall effective rate, utilizing regular rules for computation of foreign tax credit, equals or exceeds what would have been produced by a pro rata minimum distribution.

I think that with these illustrations the comments that have been made will have been satisfactorily answered. My belief continues as strongly as ever that the minimum distributions escape valve is an effective and valuable device.

EXAMPLE 3

Assume domestic corporation M owns 100 percent of the stock of controlled foreign corporations A and B. All the corporations use the calendar year as the taxable year. In 1963, corporation A had earnings and profits of $62 after payment of foreign income tax of $38—a 38-percent rate. Corporation B, for taxable year 1963, had earnings and profits of $18 after payment of foreign income tax of $2—a 10-percent rate. The consolidated effective foreign tax rate of corporations A and B was 33⅓ percent—total tax paid divided by consolidated earnings and profits before deduction of foreign taxes—

$$\frac{38+2}{100+20}$$

The required minimum distribution under section 963 was therefore $48—60 percent of the consolidated earnings and profits after taxes—60 percent of $80. An election is made to consolidate A and B for purposes of section 963. Assume the application of "gross up" provisions. Assume no withholding taxes are imposed on distributions.

If corporations A and B had each made a distribution to corporation M equal to 60 percent—the required minimum distribution percentage—of their earnings and profits after taxes, the resulting overall effective U.S. and foreign tax rate on the earnings and profits of A and B for the year 1963 would be 44.5 percent computed as follows:

	A	B	Total
Amount includible in gross income as a dividend	$37.20	$10.80	$48.00
Amount includible in gross income under sec. 78	22.80	1.20	24.00
Total amount included in gross income	60.00	12.00	72.00
Tentative U.S. tax (at 52-percent rate)	31.20	6.24	37.44
Foreign tax credit	22.80	1.20	24.00
Net U.S. tax	8.40	5.04	13.44

The combined foreign and U.S. taxes would equal $53.44—$40 plus $13.44. The resulting overall effective rate would thus be 44.5 percent—$53.44/$120.

Assume that in fact the actual distributions from A and B and the resulting U.S. tax liabilities and overall effective tax rate are as follows:

	A	B	Total
Amount included in gross income as a dividend	$55.80	$7.20	$63.00
Amount included in gross income under sec. 78	34.20	.80	35.00
Total amount included in gross income	90.00	8.00	98.00
Tentative U.S. tax (at 52-percent rate)	46.80	4.16	50.96
Foreign tax credit	34.20	.80	35.00
Net U.S. tax	12.60	3.36	15.96

The combined U.S. and foreign taxes equal $55.96—$40 plus $15.96. This amount exceeds the $53.44 total tax which would have resulted had a pro rata minimum distribution been made from each corporation, and the resulting combined effective rate of 46.6 percent exceeds the 44.5 percent that would have been produced by a pro rata minimum distribution. The regular foreign tax credit computations remain applicable and no allocation is to be made.

EXAMPLE 4

Assume the facts are the same as in example 3, except that the actual distributions from A and B and the resulting U.S. tax liabilities and overall effective tax rate are as follows:

	A	B	Total
Amount included in gross income as a dividend	$49.60	0	$49.60
Amount included in gross income under sec. 78	30.40	0	30.40
Total amount included in gross income	80.00	0	80.00
Tentative U.S. tax (at 52-percent rate)	41.60	0	41.60
Foreign tax credit	30.40	0	30.40
Net U.S. tax	11.20	0	11.20

The combined U.S. and foreign taxes equal $51.20—$40 plus $11.20. Since this amount is less than the $53.44 total tax which would have resulted had a pro rata minimum distribution been made from each corporation, the resulting combined effective rate, 42.7 percent, is less than 44.5 percent. Therefore, the regulations will require that a sufficient amount of the $30.40 foreign tax credit; namely $2.24, must be reallocated on a consolidated basis so that the resulting U.S. tax will equal $13.44. The combined U.S. and foreign tax would then equal $53.44, resulting in a combined effective rate of 44.5 percent.

EXAMPLE 5

Assume domestic corporation X, with a foreign branch, wholly owns controlled foreign corporation Y. The foreign branch of X has taxable income of $100 before payment of foreign taxes of $38. Y has earnings and profits of $18 after payment of foreign taxes of $2. Both corporations use the calendar year as their taxable year. Y distributes $8 to X. Elections are made to treat the foreign branch of X as a controlled foreign corporation and to consolidate Y with the branch for purposes of section 963.

If only 60 percent—the required minimum distribution percentage—of corporation X's branch income is taken into account and assuming that corporation Y made a distribution to corporation X equal to 60 percent of Y's earnings and profits after taxes, the resulting overall effective U.S. and foreign tax rate on the combined foreign profits of X and Y for the year 1963 would be 44.5 percent computed as follows:

	X	Y	Total
60 percent of branch income	$60		$60.00
Amount included in gross income of X as a dividend		$10.80	10.80
Amount included in gross income of X under sec. 78		1.20	1.20
Total amount included in gross income of X ($60+$10.80+$1.20)			72.00
Tentative U.S. tax			37.44
Foreign tax credit (60 percent of $38+$1.20)			24.00
Net U.S. tax			13.44

The combined foreign and U.S. taxes equal $53.44—$40 plus $13.44. The resulting overall effective rate is thus 44.5 percent—$53.44/$120.

In fact under section 963, X is considered to have distributed 100 percent of its branch income. Assume that corporation Y distributes a dividend of $7.20 to X. Under this assumption the resulting U.S. tax liabilities and overall effective tax rate are as follows:

	X	Y	Total
Amount of branch income included in gross income	$100		$100.00
Amount included in gross income as a dividend		$7.20	7.20
Amount included in gross income under sec. 78		.80	.80
Total amount included in gross income			108.00
Tentative U.S. tax at 52-percent tax rate			56.16
Foreign tax credit ($38 plus $0.80)			38.80
Net U.S. tax			17.36

The combined U.S. and foreign taxes thus equal $57.36—$40 plus $17.36. The amount exceeds the $53.44 total which would have resulted had only 60 percent of the income of X and Y been taken into account and the resulting combined effective rate of 47.8 percent thus exceeds 44.5 percent, which would have resulted had only 60 percent of the incomes been taken into account. The regular foreign tax credit computations remain applicable and no allocation is to be made.

Mr. CARLSON. Madam President, will the Senator yield?

Mr. KERR. I yield.

Mr. CARLSON. I inquire if the Senator from Oklahoma, in reading the clarification or interpretation of sections in the bill, referred to section 963.

Mr. KERR. The Senator is correct.

Mr. CARLSON. As the distinguished Senator from Oklahoma knows, I have prepared and have at the desk two amendments, one of them identified as "8–30–62—F," and one shown as "8–30–62—E," dealing with some proposed amendments to section 963.

I should like to ask the Senator if he believes that the statement he made would generally take care of the situations I had in mind in the amendments that I had intended to propose.

Mr. KERR. I say, generally, to the distinguished Senator from Kansas, that as I understand his amendment "8–30–62—F," the illustrations that I have given do, in my opinion, take care of what he had in mind in that regard. They go as far as the language of the bill would permit, and implement the language in connection with the Senator's other amendment.

Mr. CARLSON. In view of the statement of the Senator from Oklahoma, I shall not offer these amendments.

Mr. KERR. I thank the Senator from Kansas.

Mr. CANNON. Madam President, I call up my amendment designated "8–27—62." I ask that the amendment not be read but that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 391, between lines 21 and 22, insert the following new section:

"SEC. 27. ALLOWANCE TO TAXPAYER OF ADDITIONAL EXEMPTION WITH RESPECT TO DEPENDENT CHILD WHO IS STUDENT ABOVE SECONDARY LEVEL AT EDUCATIONAL INSTITUTION.

"(a) IN GENERAL.—Section 151 of the Internal Revenue Code of 1954 (relating to deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"'(f) ADDITIONAL EXEMPTION FOR DEPENDENT CHILDREN ATTENDING SCHOOL ABOVE THE SECONDARY LEVEL.—

"'(1) IN GENERAL.—An additional exemption of $600 for each child of the taxpayer—

"'(A) for whom the taxpayer is entitled to an exemption under subsection (e)(1) for the taxable year;

"'(B) who has not attained the age of 23 at the close of the calendar year in which the taxable year of the taxpayer begins; and

"'(C) who, during at least 4 calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student above the secondary level at an educational institution.

"'(2) DEFINITIONS.—For purposes of paragraph (1)—

"'(A) CHILD.—The term "child" means an individual who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the taxpayer.

"'(B) EDUCATIONAL INSTITUTION.—The term "educational institution" has the meaning assigned to it by subsection (e)(4).'

"(b) TECHNICAL AMENDMENT.—Section 213(c) of the Internal Revenue Code of 1954 (relating to maximum limitations on deductions for medical, dental, etc., expenses) is amended by striking out 'subsection (c) or (d), relating to the additional exemptions for age or blindness' and inserting in lieu thereof 'subsection (c), (d), or (f), relating to certain additional exemptions'.

"(c) CONFORMING AMENDMENT.—Section 3402(f)(1) of the Internal Revenue Code of 1954 (relating to withholding exemptions) is amended—

"(1) by striking out 'and' at the end of subparagraph (D);

"(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof '; and'; and

"(3) by adding after subparagraph (E) the following new subparagraph:

"'(F) one additional exemption for each child with respect to whom, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 151(f) (relating to dependent children attending school above the secondary level) for the taxable year under subtitle A in respect of which amounts deducted and withheld under this chapter in the calendar year in which such day falls are allowed as a credit.'

"(d) EFFECTIVE DATE.—The amendments made by this section, other than the amendments made by subsection (c), shall apply to taxable years beginning after December 31, 1961. The amendments made by subsection (c) shall apply with respect to wages paid on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act."

On page 391, line 22, strike out "27" and insert in lieu thereof "28".

Mr. CANNON. Madam President, I ask unanimous consent that the following Senators may be added as cosponsors of the amendment: the Senator from South Carolina [Mr. JOHNSTON], the Senator from Florida [Mr. SMATHERS], the Senator from Indiana [Mr. HARTKE], the senior Senator from West Virginia [Mr. RANDOLPH], the junior Senator from West Virginia [Mr. BYRD], the Senator from Colorado [Mr. ALLOTT], and the Senator from Ohio [Mr. YOUNG], because each of these Senators is himself a sponsor of a bill similar in legislative intent to my amendment. Each has recognized the challenge facing this Nation and the importance of an accelerated program for advanced education in order to meet that challenge.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Madam President, will the Senator from Nevada yield?

Mr. CANNON. I yield.

Mr. SCOTT. I ask that my name also be added as a cosponsor of the amendment. I strongly urge its adoption.

Mr. SMATHERS. Madam President, will the Senator from Nevada yield?

Mr. CANNON. I yield.

Mr. SMATHERS. I thank the Senator from Nevada for having included me as a cosponsor of the amendment. I have had an amendment similar to this one pending in the Finance Committee since January 1961. I cannot help feeling that this is a better way in which to educate the young people of America, or to make it possible for their parents to educate them, rather than to talk about loan or grant programs or other proposals of that type, although I am in favor of loan programs. However, I did not see fit to press my amendment at this particular time in light of the fact that the able Senator from Nevada had ventured forth with his amendment. I still believe that my amendment which also includes an exemption for students who work their way through school as well as individuals in the position of foster parents, is a worthwhile amendment.

I am delighted to know that progress appears to be made in the direction of having the administration look with kindness upon an approach to provide a tax deduction for parents in an amount up to $600 of the cost of sending each child to a college or university. Parents today have a heavy burden due to the high cost of tuition in sending their children to schools of higher learning. Many of them find it an impossible task and as a result the children are deprived of furthering their education. The loser in the end is the child and the Nation. I congratulate the able Senator from Nevada upon his leadership in this direction. I am happy to join with him in his amendment. With administration help I sincerely trust we will achieve success in the next session of the Congress.

Mr. CANNON. I thank the Senator from Florida for his remarks.

Madam President, I ask unanimous consent that the distinguished junior Senator from Texas [Mr. TOWER] and the distinguished Senator from Rhode Island [Mr. PASTORE] also be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Madam President, many of the Senators whose names have been added at their request as cosponsors of the amendment are themselves the sponsors of bills having a similar legislative intent, each of them recognizing the challenge which faces the Nation and the importance of an accelerated program for advanced education in order to meet that challenge.

On Tuesday, I spoke at length on the floor of the Senate pointing out the urgent need in the Nation for an accelerated program to train additional needed personnel for scientific manpower utilization.

In addition, I have consistently supported programs to provide aid to education at every level. My amendment is intended to make possible the achievement of some of those goals about which I spoke on Tuesday, and for which I have voted with consistency. It would provide an additional tax exemption to the parent of any child under 23 who is a full-time student above the secondary level at an educational institution.

As of October 1961, approximately 2,900,000 students under the age of 23 were attending universities in this country. In a study by the University of Michigan, it was determined that the average annual cost per student was $1,550. Of this amount, the student had earned and saved $360; $130 was provided by scholarships; $950 came from parents; and $110 from other sources. The study also showed that 4 in 10 found financing to be extremely difficult, while 2 in 10 found that the financial assistance which they were able to obtain was inadequate.

I believe that all children desire an opportunity to compete as adults on an equal basis with their fellows. I believe that every parent desires to give his child that opportunity. Yet, many of our

youth are being denied the right to compete due to a lack of advanced training. A study financed by the Ford Foundation and conducted by Elmo Roper & Associates revealed that 60 percent of the Nation's parents had no savings; and of those who did only an average of $150 was set aside for college expenses. My amendment would assist in meeting the expenses and thus provide an added avenue and an added incentive for the Nation's youth in the pursuit of higher education. Many additional figures would be presented to show that there is a rather desperate financial justification for this amendment.

Perhaps more important, however, in terms of the Nation's continued progress and security is the benefit which would accrue by making possible the full academic development of our Nation's youth.

Madam President, in the past there has been difficulty in getting from the Treasury Department a statement of its position on such a proposal, because of the cost of this type of legislation. Only today I received from the Secretary of the Treasury a letter which, to me, points up the recognition by the Treasury Department of the need for some type of approach to this problem. I shall ask unanimous consent that the entire letter be printed in the RECORD, but first I wish to emphasize the concluding paragraph of the letter, from Secretary Dillon, which reads, as follows:

In the light of the overall revenue aspects of the pending bill, which on our figures shows a gross loss on a full-year basis of $210 million, the addition of a further $400 million loss is obviously quite serious. I feel strongly therefore that the amendment should be deferred until next year. This will permit the administration to conduct a full and thorough study of the various approaches to financing higher education. We plan to submit to the Congress early next year a recommended solution to the problem.

Madam President, I ask unanimous consent that the entire letter be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., September 5, 1962.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: I am writing to you in regard to the amendment you have proposed to H.R. 10650 to grant taxpayers an extra $600 dependency deduction for each dependent child under the age of 23 who is a full-time student above the secondary level.

The problem of financing the higher education of students, with which your amendment is concerned, is of course an important one. The President has expressed concern over the number of qualified high school graduates who are unable to attend college because of financial reasons and has proposed a program of scholarships and loans to supplement the private and public scholarship and loan programs now in effect. Other approaches seek to provide financial assistance for higher education by granting various tax concessions. All these approaches merit serious study. A solution to the basic problem of financing the higher education of able students must be found. The administration is pursuing this matter vigorously in order to reach a fair and effective solution.

However, I do not believe that it would be desirable to attempt to deal with such a vital issue as financing higher education by means of an amendment to the 1962 revenue bill. This is particularly true in view of the fact that the proposed amendment to grant taxpayers extra dependency deductions for college students would involve an estimated annual revenue loss of at least $400 million. This estimate is based upon the following considerations: Approximately 3 million of the more than 3½ million students enrolled in institutions of higher education are estimated to be eligible for the extra dependency allowance. At $600 per eligible student, and allowing for the fact that some parents of college students do not report taxable income sufficient to absorb the extra deduction, this means a reduction in the individual income tax base of $1.75 billion.

In 1960 the average tax rate paid on taxable income was 23 percent. Twenty-three percent of $1.75 billion is approximately $400 million. This is undoubtedly a conservative estimate because it is to be expected that the income of taxpayers who have children in college are higher than that reported on the average taxable income tax return, and because the extra deduction would reduce income subject to the highest marginal, not the average, bracket rate paid by each affected taxpayer.

In the light of the overall revenue aspects of the pending bill, which on our figures shows a gross loss on a full-year basis of $210 million, the addition of a further $400 million loss is obviously quite serious. I feel strongly therefore that the amendment should be deferred until next year. This will permit the administration to conduct a full and thorough study of the various approaches to financing higher education. We plan to submit to the Congress early next year a recommended solution to the problem.

Sincerely yours,

DOUGLAS DILLON.

Mr. CANNON. Madam President, I am happy to state that the Treasury Department now recognizes the seriousness of the problem and proposes to submit to Congress early next year, so that Congress may consider the enactment of legislation in this area, a recommended solution of this very serious problem which confronts approximately 2,900,000 students who are attending school.

It is my understanding that the Secretary of the Treasury believes that if the amendment were adopted at this time, there would be grave doubt, because of the deficit which will be created, whether the bill could be recommended for final approval.

I shall defer to the distinguished manager of the bill for his comments.

Mr. KERR. Madam President, I express deep appreciation to the distinguished Senator from Nevada, first, for the amendment he has discussed; and second, for what I believe to be the constructive approach he has shown.

The proposal has been discussed with officials of the Treasury. It was their opinion that, worthy as the amendment is, if it were added to the bill it would create a deficit which would make the bill very unattractive and possibly warrant failure of its approval.

The principle of the Senator's amendment is highly commendatory. I am glad he has brought it up. I am glad he has secured a commitment from the administration that it is a subject with reference to which the administration will make an appropriate recommendation for its adequate solution early next year.

The Senator from Nevada has made a distinct contribution by bringing forward a proposal which is of deep interest to the American people, one which will be contributory to a wider spread of educational achievement by the youth of our country. I thank him genuinely for the manner in which he has handled the situation.

Mr. CANNON. I thank the Senator from Oklahoma.

Mr. RANDOLPH. Mr. President, will the Senator from Nevada yield?

The PRESIDING OFFICER (Mr. BURDICK in the chair). Does the Senator yield?

Mr. CANNON. I yield.

Mr. RANDOLPH. I commend the Senator from Nevada for his initiative and industry in presenting for the information of the Members of this forum the considered and valid reasons for the adoption of the amendment. I, too, have introduced proposed legislation relating to this problem. It was presented in January 1961, for myself and my colleague from West Virginia [Mr. BYRD]. I felt then, in presenting S. 391, as I feel now, that there is compelling argument for providing this exemption, this additional $600 benefit for the taxpayer in consideration of helping to offset spiraling education costs at the institutions of collegiate training.

This school year the cost for education at the college and university level for approximately 4,600,000 young men and young women will total $9,500 million. Only 5 years ago that cost would have been $4,200 million for only 3 million of our young people—which indicates that the seriousness of this problem comes with the impact of the greater number of our youth enrolled. It is during this period of special impact on the parents that very careful attention must be given the imperative need for this added exemption.

I have in my files letters from fathers who struggle with the costs which accrue to them when they have two or three children in college. One of these citizens sets down the problem in these words:

I have no objection to paying our Federal income taxes, as I realize that our Government must have money for the multitude of purposes set forth in our budget. I consider it a privilege to pay my small share in helping to keep our country great and good.

However, within the past 2 years, two of my children have been fortunate enough to enter West Virginia institutions of higher education, and I have, under our American way of life, been fortunate enough to have the needed income to pay all of their expenses. For the school year of 1960–61, it will cost me approximately $4,000, or $2,000 per student, to keep these two in college. At the same time, under our income tax laws I am allowed an exemption of only $600 per student or a total of $1,200. Within the next 3 years, if providence permits, I shall have a third child in college, and my average cost for the three will be $6,000 per year, and my total exemption will be $1,800.

I firmly believe that higher education affords one of the best ways of providing better American leadership, and I have always

strongly urged every American father to attempt to provide his children with college educations. If this recommendation is followed, I believe that America would become a better country in which to live, and that we will thereby make certain that America will always remain the greatest leader among world powers.

Accordingly, I urge that legislation be enacted to increase the personal exemption under our income tax laws to at least $1,200 for each child that the taxpayer wholly provides with a college education.

I ask unanimous consent to have printed at this point in the RECORD, in connection with my remarks, an article, "College Costs Will Hit Record," published today in the Washington Daily News. It indicates the heavy and increasing expense to the parents of the Nation, because of the mounting cost of the education of their children.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COLLEGE COSTS WILL HIT RECORD

(By Robert Dietsch)

It will cost American parents almost $9.5 billion to send 4.6 million offspring to college this year.

Both figures are records.

Five years ago, parents paid about $4.2 billion to send 3 million youngsters to college. And because spending more than doubled in the period while the number of students increased only 53 percent, it should be no great surprise that:

Since 1957, spending for higher education has gone up faster than spending on any other item in the consumer's budget.

ESTIMATE

The U.S. Office of Education has estimated 2¾ million students will enroll at public-supported colleges and universities this month and 1.84 million at private institutions. In 1950, the total was 2.7 million and in 1957 about 3 million.

Basic charges at the public schools (tuition and fees) have gone up from an average $155 in 1958 to $190 today. At private colleges the charges have zoomed from $526 to $740.

The differences in the figures indicate why 60 percent of today's college students enroll at public schools and only 40 percent at the private ones.

Five years ago, total costs (tuition, fees, books, room, board, clothes, transportation) were $1,500 at a public-supported college and $2,000 at a private school. Educators now put those averages at a minimum of $1,700 and $2,500.

Which would bring total outlays at public institutions up to $4.6 billion and at private institutions up to $4.7 billion.

In the last 5 years, disposable income of all Americans rose 24 percent (from $293 billion to current rate of $382 billion). But spending on higher education more than doubled.

It leads any list showing how consumer spending has increased.

Second on such a list compiled by the investment firm of David L. Babson & Co. is expenditures in stocks and bonds (up 90 percent from 1956 to 1962) and third is private school expenditures, up 85 percent.

Spending on books and maps, which might be related to education, ranked fifth—up 72 percent and only slightly behind the 75 percent spending increase on air travel.

REFLECTS BOOM

In fact, the Babson list reflects the American boom for comforts, conveniences, luxuries, entertainment, and culture. The only durable goods products on the big spending list were eyeglasses, braces, artificial limbs, boats, planes, radios, TV sets, records, and musical instruments—and all of these are connected with leisure, recreation, or health.

Behind spending increases for books and maps were increased outlays for transportation tolls (up 65 percent), private hospitals (60 percent), barbers and beauticians (56 percent), participant sports, life insurance expenses, and radio and TV repair (all 55 percent) and bank service charges and toilet articles (both 54 percent).

Mr. RANDOLPH. Mr. President, I repeat that if this issue is delayed today, it must be met in the coming Congress.

Mr. CANNON. Mr. President, I thank the distinguished Senator from West Virginia for his remarks.

Mr. SCOTT. Mr. President, I support the amendment offered by the distinguished junior Senator from Nevada [Mr. CANNON].

On January 20, 1959, I introduced proposed legislation which would have increased the amendment on personal income tax exemption allowed a taxpayer for a dependent from $600 to $1,000 for any taxable year in which such dependent was a student attending school at the college level or above.

It has long been my feeling that the welfare and the future of our country is closely and intimately tied to the educational accomplishments of our young people. The mental resources and technical skills of our young people have to be developed so that the vast knowledge and mastery of complex scientific principles so vital to the national defense are within their grasp. The full resources for strengthening our national defense are not being utilized because many of our young people, due to the financial limitations of their parents, are unable to continue their educational studies above the secondary school level.

There are programs, both private and Government, which have aided the top qualified students desiring to continue their education beyond high school, but I feel that an additional exemption of $600 to a taxpayer who has a dependent attending a school of higher education on a full-time basis would greatly increase the educational and technical potential of this country for the future, and would ease the heavy burden on parents in sending their children to college. Thousands of our young people of ability either do not enter college or have to drop out before graduation for financial reasons.

This amendment, if adopted, would go far to alleviate the loss suffered by such dropouts and discontinuances if this amendment is favorably considered here today. If not, I urge that it be presented as an amendment to other legislation or as a separate bill.

Mr. President, I urge the Senate's favorable consideration of the proposal.

Mr. CANNON. Mr. President, in view of the recognition of this problem by the administration, and in view of the fact that the administration intends to conduct a full and thorough study of the various approaches, and plans to submit to the Congress, early next year, a recommended solution, I intend to withdraw my amendment. However, before I do so, I yield to the Senator from Oregon [Mr. MORSE], who wishes to speak on the amendment.

Mr. MORSE. Mr. President, I rise to address myself briefly to the amendment.

I must completely disagree with the Senator from Oklahoma [Mr. KERR] that this is a desirable amendment from the point of view of public policy. I point out that the amendment is not a desirable one from the point of view of policy, and that it is not, so far as I know, a part of the administration's program. The administration was completely opposed to similar amendments, throughout all of our consideration of the educational program of S. 1021. Amendments of this type were discussed then but not adopted. The amendment, in my judgment, is unwise from the standpoint of educational policy, and I believe it to be unwise from the standpoint of tax policy. It gives no help to the student from the low-income family who needs help most and it gives greatest help to those whose family income is highest.

Taxes should be based upon ability to pay; but this amendment has nothing to do with the general problem of ability to pay. The amendment seeks to transfer to others the burden of paying the cost of education of college students. The amendment would give the proposed benefit to the parents of college students, many of whom are in middle to upper income brackets.

I have virtually fought my heart out on the floor of the Senate, working to obtain Federal aid to education. But Federal aid to education should come directly from the Treasury of the United States by appropriation. It should not be provided in the form of favoritism to the parents of some college students who need it the least.

If such an exemption is begun as a matter of tax policy, where will we end the making of exemptions for one group after another which have enough political power and pressure to be able to obtain such exemptions? Rather, I believe we should end the practice of granting one group exemption after another when such exemptions are based upon the political power of various groups. We should proceed to determine, from the standpoint of public policy, what we ought to spend the tax dollars for. Those expenditures should come from the common pool—the Treasury of the United States. We should not authorize various groups to avoid paying their fair share of taxes which are based upon the sound principle of ability to pay.

I favor aid to colleges, and I favor scholarship and loan aid to students—but not by means of such special legislation as the tax-exemption approach of this amendment.

I should like to have the sponsors of this proposal give to Federal aid-to-education legislation all the support they wish to give to this amendment. We might then get a decent, fair, equalized, across-the-board Federal aid-to-education program for the public elementary and secondary schools. We could then give all the help we can to our institutions of higher learning, and to their stu-

dents by way of scholarships and loans. But all such aid should come from the Treasury of the United States directly. It should not issue indirectly from a tax exemption amendment such as that proposed.

Mr. CANNON. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment of the Senator from Nevada is withdrawn.

Mr. GORE. Mr. President, perhaps it would be appropriate now to call up my amendment which would reduce the tax exemption—now provided by the bill—of $35,000 a year for bona fide oversea residents to $6,000, or exactly 10 times what has just now been under consideration in the case of a parent who has a child in college. So I call up my amendment which is identified as "8-27-62—G," and ask that it be modified, on page 2, in line 7, by making the figure at that point read "$6,000".

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 134, beginning with line 24, it is proposed to strike out all through line 25 on page 135 and insert the following:

(a) GENERAL RULE.—In the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary or his delegate that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period shall not be included in gross income and shall be exempt from taxation under this chapter. The amount excluded under this subsection for any taxable year shall be computed by applying the special rules contained in subsection (c).

On page 137, strike out lines 4 through 13 and insert the following: "a daily basis at an annual rate of $6,000."

On page 139, line 2, strike out "subsection (a)(1)" and insert "subsection (a)".

On page 139, strike out lines 3 through 20.

On page 140, beginning with line 16, strike out all through line 3 on page 141 and insert the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1962.

Mr. GORE. Mr. President, by the terms of the pending bill, a citizen who establishes a so-called permanent residence in Nassau will be given a tax exemption on earned income from foreign sources of $35,000 a year. Whereas a citizen of the United States begins paying income taxes on his income beyond $600, a citizen who establishes a residence outside the United States, but retains his citizenship in the United States, will have an exemption, under the bill, of $35,000 a year. I think that is unreasonable; it is only one of the many provisions of the bill with which I found myself in sharp disagreement with a majority of the Senate Finance Committee.

I do not know exactly what the exemption should be. Frankly, I think it should be something more than the exemption for citizens who reside in the United States. I would like to see it tied to the kind of oversea allowances that our ambassadors receive in various countries, but it seems to me that $6,000 a year would be a very generous amount of tax-exempt income. It is 10 times the personal exemption of a resident of the United States.

I shall not detain the Senate. The issue is simple. I ask for a vote.

Mr. KERR. Mr. President, I call the attention of Senators to the fact that the language in the bill is restrictive, not permissive. As of now and up to this time American citizens residing abroad beyond 18 months, who are bona fide residents of another country, pay no tax on their income. The language in the bill imposes a tax upon their income. It exempts for the first 3 years the first $20,000 of income.

After a noninterrupted period of 3 consecutive years of bona fide residence in a foreign country, the exemption becomes $35,000.

It was the feeling of the Finance Committee that such a provision is necessary to enable American corporations doing business abroad to induce residents of our country to leave their own shores, leave their environment, take their families with them to foreign countries, and there reside in connection with the operation of an American business located in a foreign country, and that unless foreign corporations are able to offer inducements of this kind, they cannot secure the kind of talent and ability that will enable them to compete successfully in the operation of their businesses in other countries.

I say to the Senate again that the language in the bill does not confer a new tax exemption. It terminates large tax exemptions which are now in the law. It is highly restrictive in comparison with the provisions of existing law.

It was adopted by the House Ways and Means Committee, by the House itself, and by the Senate Finance Committee, after the testimony of representatives of American industries doing business abroad that in no other way could they secure the experienced and able talent required to permit them to handle their foreign operations competitively with industries and companies, either nationals within the country where those American companies are doing business or foreign corporations from other countries in the world located in the affected country and competing with American businesses located there.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. KERR. I yield.

Mr. LONG of Louisiana. Are American citizens working in foreign lands subject to the State, local, and Federal taxes of those governments, just as a person working in this country is subject to the taxes of Federal, State, and local governments?

Mr. KERR. They are. They must pay the taxes of the countries where they reside, and in many of those countries the taxes exceed those paid in our country.

Mr. LONG of Louisiana. If the logic is correct that by virtue of being a citizen of the United States residing in a foreign land, a person would owe taxes, perhaps, to the local, State, and Federal governments in that land on income earned, would not the same logic require that the U.S. Federal, State, and local governments—a total of six governments—tax the same income?

Mr. KERR. That would be the case if the amendment of the Senator from Tennessee were adopted.

Mr. LONG of Louisiana. As I understand the situation, a person would have to live overseas for 3 years as a bona fide resident there before the $35,000 exemption limit would apply? Up to that time he would be limited to an exemption of $20,000?

Mr. KERR. The Senator is correct.

Mr. LONG of Louisiana. Beyond that point, he would still be subject to the taxes of this Government as well as the governments overseas?

Mr. KERR. Except to the extent that the taxes he owed to this country would be after he had received credit for the taxes he paid overseas.

Mr. LONG of Louisiana. But if the logic is correct that this taxation should be levied, the Senator recognizes that a citizen of this country could be subject to taxes by two governments, and at three different levels by each government, a total of six different types of government?

Mr. KERR. Yes.

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

Mr. KERR. I yield.

Mr. GORE. Is it not true that a citizen living abroad who pays taxes to a foreign government receives a credit for the taxes he pays to that foreign government against whatever tax liability he may have to the U.S. Government?

Mr. KERR. As I stated to the Senator from Illinois, the American taxpayer, in computing his tax liability to this country, arrives at the amount of his liability after having taken credit for taxes paid to the foreign government.

Mr. GORE. I would like to ask the Senator two more questions.

Under present law a person who is temporarily abroad for 17 out of 18 months receives an exemption of $20,000 a year on his earned income from foreign sources.

Mr. KERR. I believe that is correct.

Mr. GORE. That is unchanged by the bill?

Mr. KERR. I think that is true.

Mr. GORE. Under present law, as the Senator has stated, the sky is the limit on tax exemption on earned income for bona fide nonresidents.

Mr. KERR. I am not familiar with the definition of the language "the sky is the limit," but, as the Senator has said, under present law, if a U.S. citi- is a bona fide resident of a country overseas, after 18 months he is not subject to income taxes in this country.

Mr. GORE. Perhaps that is a rather good description of "the sky is the limit."

Mr. KERR. Perhaps.

Mr. GORE. The bill before the Senate would provide for this exemption, in

the case of a bona fide resident abroad, in two steps. If I went abroad and became a permanent resident, for the first 3 years I would receive a tax exemption of $20,000, but after having been a resident abroad for 3 years, I would receive a tax exemption of $35,000.

Mr. KERR. That is correct, but in that same period of time, as the Senator well knows, and as I have indicated, the Senator would be paying local, State, and Federal taxes in the land where he was residing and receiving an income.

Mr. GORE. That fact has no bearing upon the exemption from taxation by the United States. If he fell in the income bracket of $600, or $6,000, or $60,000, he would still get a credit against U.S. taxes for the amount of taxes he paid the foreign government. That really has no bearing upon the issue.

Mr. KERR. The Senator from Tennessee may not agree with the statement of the Senator from Oklahoma. I respect the Senator. If that is his opinion, he is justified in holding it.

Mr. GORE. Does the Senator disagree?

Mr. KERR. The Senator from Oklahoma has said that, with reference to the $20,000 exemption and the $35,000 exemption, the American citizen would be paying taxes in the foreign country in which he resided.

Mr. GORE. I close with an observation.

Mr. KERR. The exemption provided in our law would not exempt the person from paying taxes where he works.

Mr. GORE. This is merely another subsidy, another encouragement for the movement of industry and business and jobs overseas. Why give a tax exemption to a permanent resident abroad of 10 times the tax exemption given to a citizen at home?

Mr. KERR. Mr. President, I cannot agree with the statement by the Senator from Tennessee. The businesses with reference to which the American citizens are employed are businesses operating at the domestic level in the foreign countries. They are engaged in the business of selling products which, in many instances, are manufactured in this country. For instance, Sears, Roebuck & Co. has outlets around the world.

They are not exporting jobs from this country when they send somebody overseas to manage a retail outlet in Argentina, in Brazil, anywhere in Latin America, or any other part of the world. The outlet in the foreign country sells mainly American-produced products.

What these companies attempt to do is to find the most able talent they can to go overseas to effectively manage the local branch or local distribution outlet, exactly as is done in the United States. The men who sell in those markets sell goods produced and manufactured in our factories and sent overseas for sale. That creates jobs in this country; it does not export jobs.

If we change the law so that the companies cannot employ people with competitive talent, all we shall do is either to impair their business or put them out of business. If we should do that, we would destroy American jobs, because, as of now, countless thousands of Americans are engaged in manufacturing products which are sold in the outlets around the world.

Rather than this being a measure to bring about the export of jobs, it is a measure to bring about the creation and maintenance of jobs in our factories at home, in which men and women produce the products which American companies sell; whether they be sewing machines, washing machines, television sets or anything else.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. McNAMARA in the chair). Does the Senator from Oklahoma yield to the Senator from Louisiana?

Mr. KERR. I yield.

Mr. LONG of Louisiana. Is it not true that in many cases the people of whom we are speaking compete in the same countries against Japanese, Germans, Englishmen, Frenchmen, and Italians, trying to get business which will generate more jobs in our country? Insofar as we put our business people in those countries at a competitive disadvantage with respect to those with whom they are competing, from other countries, we tend to lose jobs in this country, do we not?

Mr. KERR. Not only do we lose jobs in this country, but also we reduce revenues to our Government. As American industry makes money overseas, under the language of the bill before the Senate the profits are brought back home, and the profits are taxed when they get here.

It is very simple, Mr. President. American companies which do business abroad will not hire Americans and send them overseas to operate outlets merely because the businesses love them. If they can employ local nationals to manage their business as well as or better than somebody from this country can do it, or as well for less money, that is what they will do. Only when they find that they do a greater volume of business with correspondingly greater benefits to jobs and revenues back home do they employ the American citizens and give them the inducements to go overseas, to enable them more effectively to compete in the foreign markets, as the Senator from Louisiana has said, with outlets supplied by Japan, Germany, England, Belgium, Luxembourg, and even Russia.

Wherever products are produced, from wherever business organizations have come to these areas seeking to do business, the American companies find themselves in the competition provided thereby.

Mr. LONG of Louisiana. Is it not also true that in some of the less developed countries—I have particularly in mind the Latin American countries—American business concerns, such as Sears, Roebuck & Co., which have gone there and shown how American capitalism works by installing American methods, have made it possible for the people to learn how capitalism is supposed to work?

Mr. KERR. That is true.

Senators are as aware as I am of the fact that the publications in the greatest demand in many of the underdeveloped countries and, for that matter, in the Communist countries, are catalogs from American producing and distributing companies, showing all the American gadgets, implements, utilities, and so forth which have been produced and which are available for them to buy.

I remember very well the testimony of a man from southern California who had gone to Mexico. He had taken with him his American organization. They were selling tractors and farm machinery. This man told our committee that his volume was $5 million a year, as I recall, and every dollar resulted from sales of products manufactured in this country by American workers. Through the development of his organization in Mexico, he was selling in competition with implements and machinery being brought in from many other countries. He took his American organization there because it was effective and successful in the competition.

The companies which go into foreign countries to distribute American products need the best talent they can get.

In order to get it they must offer certain inducements. Certainly we would be penny wise and pound foolish to adopt the amendment offered by the Senator from Tennessee.

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

Mr. KERR. I yield to the Senator from Florida.

Mr. SMATHERS. Is it not a fact that the proposal made by the Finance Committee, which is in the bill, would greatly tighten existing law in this particular respect?

Mr. KERR. The Senator is correct.

Mr. SMATHERS. Is it not a fact that we endeavored to do that in order to get at motion picture stars and others who might make large amounts of money and go overseas to avoid taxes?

Mr. KERR. The Senator is correct. We attempted in the bill to cover the people who were leaving the country to provide havens for themselves, but also to continue to protect American industry competitively situated in the distribution of American products in foreign countries.

Mr. SMATHERS. Is it not a fact that the reason for the $35,000 limitation is, as the Senator so ably says, to protect the representatives of American business doing business abroad? This provision was in no way designed to permit anybody to seek a tax haven. We took care of that earlier by providing that anybody who had an income above the $35,000 limitation would have to pay the total tax.

Mr. KERR. The Senator is correct. I am sure the distinguished Senator recalls the testimony by those representing large families of Americans who live overseas. The heads of those families send their children back to this country to school, at great expense in regard to transportation to and from this country. They are living far removed from their families and parents.

The opportunity to provide incentive is absolutely necessary if the American companies doing business abroad are to be permitted to remain in a competitive position.

Mr. GORE. Mr. President, to be specific, if I had been a resident of Nassau for 3 years, the bill would give me a personal tax exemption of $35,000. That means that a tax subsidy in the amount of the tax I would owe on $35,000 a year would be provided for me to live in Nassau instead of in Miami. It is not very far from Miami to Nassau. I believe the flight is about 30 or 40 minutes, and the fare is low. One can be a so-called permanent resident of Nassau but be a frequent visitor to and do business in Miami, while drawing his salary in Nassau from a technically foreign source.

It is true, as has been said, that under present law, there is no tax on earned income of a so-called permanent resident abroad. The bill would require some taxes on a few of these. I think a $35,000 exemption is utterly unreasonable.

The reason I made the statement that the measure was another encouragement for the movement of business abroad is that it would be easier to persuade people to go abroad if we give them a tax exemption of $35,000 a year. I think it is unjustified. The committee has done something, but in this case, it has not done enough. The committee started in the right direction, as was the case in several other instances in the bill.

I should like now to refute another statement that my distinguished friend from Oklahoma made. He seemed to treat the whole subject of the movement of industry, business, and investment abroad as something that would increase jobs in the United States. It would, instead, increase exports.

I should like to cite some figures. The U.S. News & World Report last year published the results of a survey of 75 firms with substantial foreign sales. I wish to state the figures which show how their manufacturing abroad is displacing production from our own factories in this country. In 1950, these companies produced abroad only 36 percent of what they sold abroad. By 1955, they were producing abroad 56 percent of their foreign sales. By 1960, this figure had leaped to 68 percent. That means the displacement of U.S. exports. I will not further belabor the point. I hope the Senate will agree to the amendment. How can we say that someone living in Nassau should be given more than 10 times the tax exemption of a person living in Miami?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

Mr. DOUGLAS. Mr. President, I ask for a division.

The Senate proceeded to divide.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK in the chair). Without objection it is so ordered.

The question is on agreeing to the amendment of the Senator from Tennessee [Mr. GORE]. [Putting the question.]

Mr. DOUGLAS. Mr. President, I ask for a division.

On a division the amendment was rejected.

Mr. DOUGLAS. Mr. President, will the Presiding Officer state the count on the vote?

Mr. CURTIS. I ask for the regular order.

Mr. DOUGLAS. Will the Presiding Officer state the count on the vote? I suggest the absence of a quorum.

Mr. HOLLAND. A point of order. No business has been transacted.

The PRESIDING OFFICER. Ordinarily the result of a standing vote is not announced.

Mr. DOUGLAS. May we have it announced in this case?

Mr. MANSFIELD. I ask unanimous consent that the vote be taken and that the Senator from Illinois be notified of what it was.

Mr. LONG of Louisiana. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG of Louisiana. Is it not the practice that on a standing vote, if there are more nays than yeas, the clerk stops counting at the time he arrives at the conclusion?

Mr. DOUGLAS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOUGLAS. It may be the practice. However, can the Senate take action unless a quorum is present? Is a Senator to be deprived of the knowledge of how many Senators are present?

Mr. MANSFIELD. I have a unanimous consent request pending. I should like to have it honored.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. CANNON. What is the request?

Mr. MANSFIELD. That a count be taken and that the count be announced to the Senator from Illinois.

Mr. DOUGLAS. That the previous count be announced.

Mr. BUSH. Reserving the right to object——

Mr. MANSFIELD. Is there objection? I believe the request was agreed to.

The PRESIDING OFFICER. It is agreed to. As many as favor the amendment will rise and stand until counted. [After a pause.] Those who oppose the amendment will rise and stand until counted.

On this vote the yeas are 11 and the nays are 15. The amendment is rejected.

Mr. DOUGLAS. Obviously a quorum is not present. I make the point that a quorum is not present. I suggest the absence of a quorum.

Mr. HOLLAND. May I be heard on that question? A quorum may be suggested after the Chair rules and the Senate transacts business, but not before.

Mr. DOUGLAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HOLLAND. Has the vote been announced?

The PRESIDING OFFICER. It has been announced.

Mr. KERR. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KERR. Has the vote on the amendment been concluded?

The PRESIDING OFFICER. It has been concluded.

Mr. KERR. Has the amendment been rejected?

The PRESIDING OFFICER. The amendment has been rejected.

Mr. DOUGLAS. How can a motion be defeated when a quorum is not present to pass upon it?

The PRESIDING OFFICER. The absence of a quorum was not suggested until after the vote.

Mr. DOUGLAS. I previously suggested the absence of a quorum.

The PRESIDING OFFICER. There are two ways in which to establish a quorum—either by a yea and nay vote or by a request for a quorum.

Mr. HICKENLOOPER. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. On a division the count does not affect a quorum.

Mr. DOUGLAS. This is obviously another way in which to whipsaw the Senate to pass measures by a small number of Senators. If the rules permit such a procedure, the rules are foolish.

Mr. MANSFIELD. I ask unanimous consent that the vote previously announced be rescinded and that I may be allowed to suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, on the Gore amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee [Mr. GORE]. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Mississippi [Mr. EASTLAND] and the Senator from Washington [Mr. MAGNUSON] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], the Senator from Wyoming [Mr. HICKEY], and the Senator from Missouri [Mr. SYMINGTON] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. MURPHY] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. MURPHY] would each vote "nay."

The result was announced—yeas 36, nays 53, as follows:

[No. 245 Leg.]

YEAS—36

Allott	Hart	Miller
Bartlett	Humphrey	Morse
Burdick	Jackson	Moss
Cannon	Javits	Muskie
Carroll	Johnston	Neuberger
Case	Keating	Pastore
Church	Kefauver	Pell
Clark	Kuchel	Proxmire
Douglas	Lausche	Scott
Ervin	Long, Hawaii	Thurmond
Gore	McNamara	Yarborough
Gruening	Metcalf	Young, Ohio

NAYS—53

Aiken	Fulbright	Pearson
Beall	Hartke	Prouty
Boggs	Hayden	Randolph
Bush	Hickenlooper	Robertson
Butler	Hill	Russell
Byrd, Va.	Holland	Saltonstall
Byrd, W. Va.	Hruska	Smathers
Capehart	Jordan, N.C.	Smith, Mass.
Carlson	Jordan, Idaho	Smith, Maine
Chavez	Kerr	Sparkman
Cooper	Long, Mo.	Stennis
Cotton	Long, La.	Talmadge
Curtis	Mansfield	Tower
Dirksen	McCarthy	Wiley
Dodd	McClellan	Williams, N.J.
Ellender	McGee	Williams, Del.
Engle	Monroney	Young, N. Dak.
Fong	Mundt	

NOT VOTING—11

Anderson	Eastland	Morton
Bennett	Goldwater	Murphy
Bible	Hickey	Symington
Bottum	Magnuson	

So Mr. GORE'S amendment was rejected.

Mr. KERR. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. DIRKSEN. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair wishes to have inserted in the RECORD precedents from "Senate Procedure," on pages 632 and 633, upholding the practice of the Senate in declaring that it is not necessary for a quorum to be present in order to vote by a division.

Is there objection?

There being no objection, the excerpt from the volume "Senate Procedure," pages 632 and 633, was ordered to be printed in the RECORD, as follows:

The Presiding Officer is not required nor is it a practice of the Senate to announce the number voting on a division; [34] and usually the number voting for or against a proposition on a division vote, under the practice of the Senate, is not stated by the Presiding Officer; [35] he merely declares the results; [36] at times the number voting on a division have been announced.[37]

There is no question of a quorum involved in a division vote; [38] it is not required that a quorum shall vote on a division [39] and the vote is not invalidated because of that fact; [40] the number voting on a division is immaterial, the question being simply whether the larger vote is on the one side or the other.[41]

Where, on a division, less than a quorum voted on a question, the Presiding Officer held the vote was valid, and that it was not in order, after a quorum call which had been demanded by a Senator, to ask for another division upon the question.[42]

An announcement by the Presiding Officer that, on a division, less than a quorum voted does not officially disclose the absence of a quorum; where, in such a case, the Presiding Officer made no declaration of the result, the Senate, on appeal, decided the question had not been determined.[43]

An amendment, on a division, having received a majority of the votes cast, although not a quorum, was declared to have been adopted; while the number of votes announced by the Presiding Officer was less than a quorum, it does not officially show that a quorum is not present; a quorum is presumed to be present until the contrary is shown,[44] and any Senator can call for a quorum before the vote is announced.

Mr. DIRKSEN. Mr. President, I should like to ask the majority leader whether it is the intention to complete action on the bill tonight.

Mr. MANSFIELD. I am hopeful that that can be done. I do not know how many more amendments will be offered. So far as I know, the Senator from Minnesota [Mr. MCCARTHY] will have an amendment—if he intends to offer it; and the Senator from Illinois [Mr. DOUGLAS] will have an amendment.

Mr. FULBRIGHT. I intend to offer an amendment on behalf of the Senator from Minnesota.

Mr. MANSFIELD. The Senator from Iowa [Mr. HICKENLOOPER] will have an amendment, and perhaps other Senators will have amendments. The Senate will remain in session tonight in order to finish the bill, if possible.

Mr. HICKENLOOPER. My remarks on my amendment will be brief.

Mr. DIRKSEN. I think the amendment of the Senator from Minnesota [Mr. MCCARTHY] will be offered by the Senator from Arkansas.

Mr. FULBRIGHT. That is correct.

Mr. DIRKSEN. Mr. President, at least that gives us some idea.

Mr. MORSE. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. MORSE. When the majority leader spoke about finishing consideration of the bill tonight, did he mean finishing the amendments or finishing the speeches on the bill, following the third reading?

Mr. MANSFIELD. That all depends on the membership; it is not up to the Senator from Illinois and the Senator from Montana. We are the servants of the Senate. We hope to do the best we can. If that is the decision of the Senate, we shall do the best we can.

Mr. MORSE. But apparently there are four or five or six amendments still to be acted on, and there are still speeches to be made on the bill. I do not know how many speeches will be made on it; but the amendments and the speeches might require that the session continue until a rather late hour.

Mr. MANSFIELD. That might well be.

Mr. MILLER. Mr. President, I call up the amendment which I have at the desk, and ask that it be stated.

Mr. MANSFIELD. Mr. President, will the Senator from Iowa yield?

Mr. MILLER. I yield.

Mr. MANSFIELD. I am about to propound a unanimous-consent request, although I do not know whether it will be agreed to. But in view of the fact that a number of Senators have indicated that they have amendments to offer, I propose that there be a time limitation of 30 minutes on each amendment, or 15 minutes to a side.

The PRESIDING OFFICER. Is there objection?

Mr. DOUGLAS. Mr. President, reserving the right to object, let me state that I have an amendment on the depletion allowance. The amendment strikes at the greatest abuse in the entire tax system. I shall not present the amendment at undue length, but I believe it should be presented in such fashion that it can be properly heard and considered.

Mr. KERR. How much time does the Senator from Illinois think he will need?

Mr. DOUGLAS. I do not intend to speak at undue length; but I wish to have the subject treated in thorough fashion. I should not require more than an hour.

So I object.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon will state it.

Mr. MORSE. Was objection made to the proposed unanimous-consent agreement?

The PRESIDING OFFICER. Objection was heard.

Mr. MILLER. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. It is proposed to add to the bill a new section entitled "Incentive Taxation of Growth Income."

Mr. MILLER. Mr. President, I ask unanimous consent that the reading of

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[34] Aug. 11, 1914, 63–2, RECORD, pp. 13612, 13613; see also Mar. 6, 1940, 76–3, RECORD, p. 2440.

[35] Jan. 19, 1944, 78–1, RECORD, p. 398; July 10, 1947, 80–1, RECORD, p. 8610; Mar. 6, 1940, 76–3, RECORD, p. 2440; see also Mar. 28, 1933, 73–1, RECORD, p. 927.

[36] Sept. 8, 1922, 67–2, RECORD, p. 12250.

[37] Mar. 18, 1940, 76–3, RECORD, p. 2985; Apr. 5, 1940, 76–3, RECORD, p. 4104; May 21, 1940, 76–3, RECORD, p. 6495; June 14, 1940, 76–3, RECORD, p. 8252; Mar. 7, 1940, 76–3, RECORD, pp. 2467–2468; Mar. 19, 1935, 74–1, RECORD, p. 3971; Mar. 15, 1940, 76–3, RECORD, p. 2959; Mar. 21, 1940, 76–3, RECORD, p. 3213.

[38] May 4, 1914, 63–2, RECORD, p. 7671.

[39] Jan. 18, 1915, 63–3, RECORD, p. 1766.

[40] See Mar. 10, 1916, 64–1, RECORD, p. 3898.

[41] May 4, 1914, 63–2, RECORD, p. 7671.

[42] June 15, 1910, 61–2, RECORD, pp. 8162–8167.

[43] Aug. 18, 1922, 67–2, Journal, p. 393, RECORD, pp. 11559–11561.

[44] Mar. 25, 1920, 66–2, RECORD, pp. 4812, 4813.

the amendment be dispensed with, and that the amendment be printed in full in the RECORD.

The PRESIDING OFFICER. Is there objection?

There being no objection, the amendment submitted by Mr. MILLER was ordered to be printed in the RECORD, as follows:

Add the following new section to the bill:

"SEC. . INCENTIVE TAXATION OF GROWTH INCOME.

"(a) REDUCED RATES ON GROWTH INCOME.—

"(1) Section 1 of the Internal Revenue Code of 1954 is amended by striking subsection '(d)' and inserting in lieu thereof the following:

"'(d) TAX ON GROWTH INCOME.—Notwithstanding the rates of tax prescribed above, the tax on growth income shall be reduced by an amount equal to one-half the tax otherwise computed on the basis of such rates: *Provided,* That such reduction shall not exceed the tax for the first immediately preceding full taxable year: *And provided further,* That reductions of less than $5 shall not be recognized.

"'(e) CROSS REFERENCE.—

"'For definition of taxable income, see section 63.

"'For definition of growth income, see section 64.'

"(2) Section 3 of the Internal Revenue Code of 1954 is amended by adding the following at the end thereof: '*Provided,* That the tax on growth income shall be reduced by an amount equal to one-half the tax otherwise computed under the table; but such reduction shall not exceed the tax for the first immediately preceding full taxable year, and reductions of less than $5 shall not be recognized.'

"(3) Section 11 of the Internal Revenue Code of 1954 is amended by changing subparagraph '(d)' to '(e)' and by adding a new subparagraph '(d)' as follows:

"'(d) TAX ON GROWTH INCOME.—Notwithstanding the rates of tax prescribed above, the tax on growth income shall be reduced by an amount equal to one-half the tax otherwise computed on the basis of such rates: *Provided,* That such reduction shall not exceed the tax for the first immediately preceding full taxable year: *Provided further,* That reductions of less than $15 shall not be recognized.'

"(4) Section 12 of the Internal Revenue Code of 1954 is amended by adding the following subsection:

"'(g) For definition of growth income, see section 64.'

"(b) TAX REDUCTION PAYBACK.—

"(1) The Internal Revenue Code of 1954 is amended by changing section '5' to '6' and by adding a new section '5' as follows:

"'SEC. 5. TAX REDUCTION PAYBACK.

"'(a) The amount of tax reduction attributable to growth income provided for in sections 1 and 3 shall be voided and the reduction shall become a part of the tax due and payable for the following taxable year to the extent prescribed in subparagraph (b).

"'(b) If a taxpayer's combined income from wages and salaries, rents, ordinary dividends, royalties (other than royalties receiving special tax treatment), interest, and business and farming (with adjustments provided in section 64 applicable to the current taxable year) is less than such combined income (with adjustments provided in section 64 applicable to the first immediately preceding taxable year) for the year of tax reduction due to growth income, the tax reduction shall be voided according to the proportion that the decrease bears to the amount of growth income on the basis of which said tax reduction was computed: *Provided,* That said tax reduction shall not be voided to the extent said decrease is attributable to the retirement or death of a taxpayer (or his spouse) or to losses due to fire, flood, drought, windstorm, theft, or other casualty, not covered by insurance or otherwise: *Provided further,* That if said following taxable year is a short year due to termination of an estate or trust, such combined income (with adjustments provided in section 64 applicable to the current taxable year) shall be annualized for the purpose of computing said decrease, if any.'

"(2) The Internal Revenue Code of 1954 is further amended by changing section '12' to '13' and by adding a new section '12' as follows:

"'SEC. 12. TAX REDUCTION PAYBACK.

"'(a) The amount of tax reduction attributable to growth income provided for in section 11 shall be voided and the reduction shall become a part of the tax due and payable for the following taxable year to the extent prescribed in subparagraph (b).

"'(b) If a corporation's combined income from rents, ordinary dividends, royalties (other than royalties receiving special tax treatment), interest, and business and farming (with adjustments provided in section 64 applicable to the current taxable year) is less than such combined income (with adjustments provided in section 64 applicable to the first immediately preceding taxable year) for the year of tax reduction due to growth income, the tax reduction shall be voided according to the proportion that the decrease bears to the amount of growth income on the basis of which said reduction was computed: *Provided,* That said tax reduction shall not be voided to the extent said decrease is attributable to losses due to fire, flood, drought, windstorm, theft, or other casualty, not covered by insurance or otherwise: *Provided further,* That if said following taxable year is a short year due to liquidation, dissolution, or reorganization, such income (with adjustments provided in section 64 applicable to the current taxable year) shall be annualized for the purpose of computing said decrease, if any.'

"(c) GROWTH INCOME DEFINED.—

"(1) The Internal Revenue Code of 1954 is amended by adding the following new section:

"'SEC. 64. GROWTH INCOME DEFINED.

"'(a) For purposes of this subtitle, the term "growth income" means the excess of the combined income from the current taxable year from wages and salaries, rents, ordinary dividends, royalties (other than royalties receiving special tax treatment), interest, and business and farming (with adjustments provided below) over such combined income (not less than zero) for the first immediately preceding full taxable year (with adjustments provided below), hereinafter referred to as the "base year".

"'(b) With respect to the current taxable year, strike out the following:

"'(1) Gains and losses from the sale or exchange of capital assets or property treated as capital assets, the capital loss carryover deduction, and net operating loss deduction.

"'(2) Recognized income due to recovery of bad debts, prior taxes, and delinquency amounts, and due to improvements by a lessee.

"'(3) Net income from illegal activities.

"'(4) Lump sum income which the taxpayer may ratably allocate for tax purposes except to the extent of the portion ratably allocable to the current taxable year.

"'(5) Losses from fire, flood, windstorm, theft, or other casualty not covered by insurance or otherwise.

"'(6) Income resulting from a change in method of valuing inventory, method of accounting, or method of depreciation.

"'(7) Dividend income from a corporation in excess of 125 percent of such income received from the corporation in the previous taxable year, or in excess of current earnings of said corporation, whichever excess amount is the greater, where 50 percent or more of the total combined voting power of all classes of stock of said corporation is owned by the taxpayer.

"'(8) In the case of a taxpayer other than a corporation, income from a business or a partnership which represents the continuation of the business of a corporation, 50 percent or more of the total combined voting of all classes of stock of which is owned by the taxpayer. (This provision shall not apply after the first full taxable year following cessation of such business by the corporation.)

"'(9) In the case of a corporation, income which represents the continuation of the business of another corporation merged or consolidated with the taxpayer or which represents the continuation of the business of another corporation of which 50 percent or more of the total combined voting power of all classes of stock is owned by the corporation. (This provision shall not apply after the first full taxable year following such merger or consolidation or cessation of such business by the other corporation.)

"'(10) In the case of a corporation, the decrease in deductions for charitable contributions (under section 170) below such deductions for the first immediately preceding full taxable year.

"'(11) In the case of estates and trusts, the decrease in deductions for income paid over to beneficiaries below such deductions for the first immediately preceding full taxable year where such payment is discretionary.

"'(c) With respect to the base year, delete the following:

"'(1) Gains and losses from the sale or exchange of capital assets or property treated as capital assets, the capital loss carryover deduction, net operating loss deductions, and the additional first-year depreciation deduction authorized by section 179.

"'(2) Recognized income due to recovery of bad debts, prior taxes, and delinquency amounts, and due to improvements by a lessee.

"'(3) Losses from fire, flood, windstorm, theft, or other casualty not covered by insurance or otherwise.

"'(4) Income resulting from a change in method of valuing inventory, method of accounting, or method of depreciation when such change results from action of the Commissioner.

"'(d) In the case of corporations, the combined income for the base year shall not be less than such income (with the same adjustments) for the taxpayer's calendar or fiscal year 1962 or (if the taxpayer was not in existence or was inactive during such year) the first full taxable year thereafter: *Provided,* That the taxpayer may elect in lieu of such limitation to use the average of such combined income (with the same adjustments) for calendar or fiscal year 1962 and the two immediately preceding full taxable years (or, if the taxpayer was not in existence for such period, the first immediately preceding full taxable year) if active during such period.

"'In the case of a reorganization, the limitation on the base year of the continuing corporation shall be computed by using the combined income for calendar or fiscal year 1962 of the corporations which are parties to the reorganization; and if the combined income of fiscal or calendar year 1962 and the two immediately preceding taxable years (or first immediately preceding taxable year,

as the case may be) is used in lieu of such limitation, the combined income for such period of the corporations which are parties to the reorganization shall be used.

"'(e) Where income or deductions have been arbitrarily shifted from one year to another by a taxpayer for no business purpose other than reduction of taxes arising from the reduced tax rates on growth income, the Commissioner is authorized to make such adjustments as are necessary to protect the revenue.

"'(f) In determining ownership of stock for purposes of this section, actual or constructive ownership (under section 318) shall be taken into account.

"'(g) Where a joint return is filed for the current taxable year and separate returns were filed (either as married or single individuals) for the base year, the base year's income shall include the income (with adjustments specified above) of both returns unless the income on the joint return represents the actual income of only one spouse.'

"(d) EFFECTIVE DATE.—The section added by this amendment shall be effective January 1, 1963. In the case of taxable years ending prior to December 31, 1963, the tax reduction provided for herein shall be reduced according to the proportion that the number of months not falling within the calendar year 1963 bears to 12."

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 to encourage economic growth by providing for reduced income tax rates on growth income of individuals, estates, trusts, and corporations, to define 'growth income', to eliminate certain defects and inequities, and for other purposes."

Mr. MILLER. Mr. President, it is my intention to ask that the amendment be withdrawn. Nevertheless, I ask unanimous consent that the usual number of copies of the amendment be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. Mr. President, today there is a long overdue national concern over the adverse effect our system of income taxation has been having on our capitalistic economic system. As the cost of living moves steadily upward, as the squeeze between prices and costs grows tighter, as competition from foreign lands becomes keener, as our annual rate of economic growth remains stagnant, and as serious unemployment continues to be chronic, the key role of income taxation becomes more evident.

Granted that the basic purpose of this taxation is to raise revenue, it is obvious that some of its features can produce by-products of discouragement or encouragement to economic growth. Unfortunately discouragement, rather than encouragement, prevails under the present system.

The need for increased purchasing power and increased capital formation and utilization has prompted a call for tax cuts from the people and assurances of tax cuts from the President. However, despite the theories of some sophisticated economists, there seems to be an awareness on the part of the people that tax cuts, without a cutback in spending to make room for them, would not be meaningful; that tax cuts which produce increased Federal deficits and add to the national debt will, sooner or later, result in reduced purchasing power of our money, so that any savings or capital resulting from such tax cuts will be diluted, and any increased purchasing power or increased capital formation will be illusory. Worse yet, perhaps, the reduced value of our dollar would add to the seriousness of our declining gold reserves.

Congress in its present makeup is not disposed to cut back spending. The President says there will be no reduction in spending for programs which are essential to the national interest, but interpretation of what is essential to the national interest by the administration indicates that it will not reduce its spending proposals to Congress. With such an impasse, we are on dead center; and the situation poses a deadly threat to the future of our Nation. We are desperately in need of a tax change to encourage economic growth.

REQUIREMENTS OF INCENTIVE TAXATION

The word "incentive" has been rather loosely applied in tax policy. Usually it is associated with tax reduction—either through outright tax rate reduction or through so-called tax reform, or both. It assumes that tax reduction will automatically be followed by economic growth, but there is no guarantee that this will happen. Most of us would probably anticipate an overall growth in our economy if we had tax reduction accompanied by stable purchasing power of our money. However, there would probably be taxpayers who would happily enjoy the tax reduction without seeking to contribute to economic growth. They would accept the reward without earning it.

What is required is a tax change which will be an incentive, which will not give the reward of tax reduction unless the objective of growth is fulfilled, which will operate without jeopardizing the purchasing power of our money, which contains elements of tax reform and tax rate reduction, and which faces up to the political realities existing in Congress and the administration.

In the current issue of Fortune magazine, the editorial entitled "The Right Kind of Tax Cut" points out the dilemma that some tax-cutting proponents are in because of the atmosphere with respect to the refusal to cut spending.

In the Friday, August 31, issue of the Wall Street Journal an excellent article by Mr. Robert D. Novak also points out the dilemma that tax-cutting proponents find themselves in when there is a refusal to cut back spending.

I ask unanimous consent that the editorial and the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MILLER. I have a plan for such a change, and I call it incentive taxation of growth income. My amendment incorporates this plan.

INCENTIVE TAXATION OF GROWTH INCOME

In a nutshell, my plan proposes to tax any increase in adjusted gross income—in the case of individuals—or taxable income—in the case of estates, trusts, and corporations—over the adjusted gross income or taxable income for the preceding year at one-half the rates that would otherwise apply. You might call it an excess profits tax in reverse. This increase represents "growth income," and tax reduction would take effect only with respect to it. The reward of tax reduction would have to be merited. Taxpayers would have an incentive to devote extra effort in the use of their skills and responsibilities. People with savings would have an incentive to invest their money as risk capital in the purchase of stock or bonds or the making of loans—all of which are needed to provide the expansion of our private economy needed to provide job opportunities for our unemployed and the millions who will be graduating from our high schools and colleges.

Examples of Miller plan for incentive taxation of growth income (effective Jan. 1, 1963)

Year	Adjusted gross income	Tax at old rate	Increase in tax over prior year at regular rate	Tax reduction (½ increase)	New tax
Individual, married, 4 children, using optional standard deduction, with adjusted gross income from a salary, wages, profession or business:					
1962	$10,000	$1,108	(1)	(1)	(1)
1963	15,000	2,304	$1,196	$598	$1,706
1964	20,000	3,740	1,436	718	3,022
Individual, married, 2 children, using optional standard deduction, with adjusted gross income from a salary, wages, profession or business:					
1962	5,000	420	(1)	(1)	(1)
1963	5,500	510	90	45	465
1964	6,000	600	90	45	555
Corporation, taxable income as shown in 2d column (note 1st $25,000 taxes at 30 percent; all over $25,000 taxed at 52 percent):					
1962	100,000	46,500	(1)	(1)	(1)
1963	120,000	56,900	10,400	5,200	51,700
1964	140,000	67,300	10,400	5,200	62,100

[1] Change not in effect.

From the Government's standpoint, the Treasury would have reasonable assurance of the same amount of revenue from the same amount of income as the previous year, so that the tax reduction under this plan would not cause a loss of revenue and a consequent loss in purchasing power of our money which characterize other tax-cutting plans. I recognize that Government spending increases in anticipation of increased revenues might have to be curbed, but these should be curbed anyhow—as the administration has learned from the disappear-

ance of its promised balanced budget, which was based on excessive optimism over revenue increases for the current year.

However, I suggest that the prospect of paying tax at only one-half the regular rate on growth income would be a tremendous incentive for taxpayers to increase their productivity. Wasteful or marginal costs, which too often are tolerated because they are tax deductible, would be reduced or eliminated. Tax reform is built into the plan because taxpayers would have an incentive—other than that furnished by a revenue agent—to avoid unnecessary or excessive expenditures. Such expenditures would only reduce their growth income and their tax reduction. We could expect real improvement in our rate of economic growth.

GROWTH INCOME DEFINED

The definition of "growth income" must be precise and realistic. It should certainly include business and farming income. With respect to other items of income, either of two approaches may be used. One approach, which is simpler, would be to specify the items. The other approach would be to include all income except certain items which do not have any particular relevance to growth during the current year due to the taxpayer's labor or capital. For example, pensions and annuities, income in respect of a decedent, income from death benefits, compensation for injuries, income from an estate or trust, alimony and separate maintenance benefits, income from the discharge of indebtedness, and the like. Even with these exclusions, however, we would still be faced with situations under which an incentive would be extended to increase income that would be of marginal or questionable significance insofar as labor or capital are concerned, not to mention illegal income, which is nonetheless taxable.

Accordingly, I would propose that in addition to business and farming income, wages and salaries, rents, ordinary dividends, royalties—other than royalties receiving special tax treatment—and interest be specified as the only other type of income which can be used in computing growth in income. These items constitute the major sources of income of the vast majority of taxpayers and are relatively easy to ascertain; and from the standpoint of administration, it is desirable to keep them at a minimum. Moreover, all of them have a clear connection with the utilization of labor or capital in the production of income. Capital gains, including capital dividends, may happen to be realized during the current taxable year, but they usually include growth which has occurred prior to the current taxable year; moreover, they already receive special incentive tax treatment. I would therefore exclude them from the definition of "growth income."

ADJUSTMENTS TO BUSINESS INCOME

To have a realistic measurement of growth in business income, certain adjustments should be made. For example, a lump sum payment received in the taxable year which reflects services rendered over a period of several years cannot reasonably be attributed, in its entirety, to growth during the taxable year. A ratable allocation to the current year under the option available to the taxpayer should be the limit. Income from a change in method of valuing inventory, from a change in method of accounting, or from a change in method of computing depreciation hardly reflects economic growth. Additional income of a corporation resulting from another corporation being merged with it, to the extent of the other corporation's income, certainly does not represent growth of the first corporation's business. Additional income of an individual resulting from the transfer to him—through dissolution—of the business of his controlled corporation would not represent his growth. These items of taxable income should be eliminated in computing growth income.

To be fair, there are other adjustments that should be made to eliminate deductions which are properly allowable for tax purposes but have no essential relationship to growth. Thus net operating loss carryover deductions or capital loss carryover deductions should not be taken into account in determining growth income. It would seem that a loss deduction attributable to fire, flood, windstorm, theft, or other casualty, not covered by insurance or otherwise, should not be permitted to destroy the growth a taxpayer may otherwise have achieved and should also be eliminated.

Another adjustment appears to be desirable in the case of corporations. Contributions to charitable, educational, religious, scientific, and similar activities are becoming increasingly important and are to be encouraged. If a corporation's growth income could be enhanced merely by cutting back its contributions, a long-standing policy of Congress to encourage corporate giving would be frustrated. Accordingly, it appears desirable to provide that growth income of a corporation may not be so achieved.

Business income from illegal activities should be excluded altogether, for I presume this kind of growth is not to be encouraged.

PRIOR-YEAR ADJUSTMENTS

Adjustments with respect to the current year are not the only ones required to properly measure growth. Income of the immediately preceding taxable year, which ordinarily would serve as the base for measuring growth, also requires some adjustments. First of all, we must decide whether a base year income of less than zero should be permitted. Although I would admit that coming from a loss of $10,000 in one year to a profit of $10,000 in the following year represents $20,000 in growth, I do not believe it wise to permit growth income to be measured from a loss position, particularly since a taxpayer already has the benefit of a net operating loss carryover or carryback deduction.

Next, we should not measure growth income in the current year from a fictitiously low economic income base. Thus, if income during the preceding year has been lowered for tax purposes by taking into account a net operating loss deduction, a capital loss carryover deduction, a loss deduction arising from fire, flood, windstorm, theft, or other casualty, not covered by insurance or otherwise, or a deduction for the extra first-year depreciation allowed by section 179, these adjustments should be added back.

I am dubious over permitting a lowering of the base year's income by eliminating income arising from a change in method of valuing inventory, change in method of accounting, or change in method of depreciation. Such changes are usually voluntary on the taxpayer's part and often are made with a view to improving his tax position. Accordingly, I would propose that a lowering of the base year's income by eliminating such income be permitted only where the change in method has been forced on the taxpayer by the Government.

Where a joint return is filed for the current taxable year, it would be unrealistic to measure the income reported therein against the income of only one of the spouses for the preceding year if separate returns were filed by them—either as married or single persons—unless the income of the joint return represents the actual income of only one of them. I use the word "actual" to make it clear that community property law will not enter into this calculation.

PREVENTION OF WINDFALLS, WHIPSAWING, AND OTHER UNDESIRABLE RESULTS

In order to prevent windfalls, whipsawing—fluctuating income from one year to another to take undue advantage of the reduced rates on growth income—and other undesirable results, certain provisions are necessary.

The question arises whether a taxpayer who becomes a wage earner, salaried person, or business operator for the first time should be permitted to treat any or all of his first year's income as growth income. The answer would seem to be "No." Birth of income is not the same as growth in income. A similar answer should apply in the case of the first year of operation of an estate, trust, or corporation. Accordingly, I would define growth income in such a way as to require it to be measured against the first immediately preceding full taxable year, so that at least one full year's experience will be used as a basis for calculating growth. But that first year's experience may represent only part-time or nominal activity. To prevent a windfall by using the income from such a year as a base, I would provide that tax reduction from the special rates on growth income not be in excess of the amount of tax for the preceding year.

For example, B, a college senior, graduates in midyear and commences full employment, earning $5,000, with regular tax thereon of $813. During the preceding year he worked part time, earning $1,200 and paying tax of $98. His tax reduction for the current year would be $98—not $357.50—one-half the difference between $813 and $98. C, a corporation, commenced its activities in June of 1963. Reporting on a calendar-year basis, it had a loss of $10,000 during the short year 1963, income of $10,000 for 1964, on which tax of $3,000 was paid, and income of $100,000 for 1965, on which tax of $46,500 would be owing under the present rates. C's tax reduction

for 1965 would be $3,000, not $21,750—one-half the difference between $46,500 and $3,000.

Also, to eliminate administrative costs with respect to minute amounts of growth, my amendment provides that tax reduction of under $5 in the case of individuals, estates, and trusts and $15 in the case of corporations not be recognized.

An individual in control of a corporation—or a corporation in control of another corporation—might seek to obtain growth income by arbitrarily having the controlled corporation declare extraordinary dividends. To prevent this type of abuse, it would seem desirable to limit the amount of dividends that could be counted for this purpose—say to 125 percent of those received from the controlled corporation during the preceding taxable year, and, in any event, limit such dividends to the amount of current earnings of the corporation. In ascertaining whether or not a taxpayer is in control of a corporation, constructive ownership of stock under the attribution rules of section 318 should be taken into account.

With the payback provision, which I shall presently discuss, the graduated tax rates applicable to individuals, trusts, and estates do not offer much opportunity for whipsawing. There is, however, some opportunity for whipsawing in the case of corporations. To discourage this, I would propose using as a base year for corporations the immediately preceding full taxable year—as in the case of individuals, estates, and trusts—with the limitation that the taxable income for such base year be not less than the taxable income for fiscal or calendar year 1962, assuming this plan becomes effective January 1, 1962. If the corporation was not in existence or active during fiscal or calendar year 1962, its first full taxable year thereafter would be used for this purpose. However, one can conceive of situations where a corporation's taxable income for fiscal or calendar year 1962 might be abnormally high, leaving little or no incentive to the corporation to seek growth because of the arbitrary selection by Congress of the taxable income of such year as a limitation on the base year. To cover these situations, I would propose that in lieu of fiscal or calendar year 1962, a corporation could elect to use—as a limitation against the taxable income of the base year—the average taxable income of fiscal or calendar 1962 and the 2 preceding taxable years—or the preceding taxable year, if the corporation was not in existence or active during the 2 years preceding fiscal or calendar 1962.

For example, corporation X had taxable income as follows: 1960, $75,000; 1961, $100,000; 1962, $200,000; 1963, $100,000; 1964, $150,000. No adjustments were required to taxable income for 1963 and 1964. Obviously there was no growth income for 1963 and no tax reduction. Growth income for 1964 cannot be measured against taxable income of $100,000 for 1963, because 1963 taxable income cannot be less than the $200,000 taxable income for 1962. However, the corporation elects to take the average taxable income for 1960, 1961, and 1962, which is $125,000, as the limitation below which base income for 1962 cannot go. Growth income for 1964 would be $25,000.

Deliberate whipsawing by taxpayers may possibly be attempted notwithstanding the precautionary provisions built into this plan. With a view to discouraging such efforts, it would seem proper to provide that where income or deductions have arbitrarily been shifted from one year to another by a taxpayer for no business purpose other than reduction of taxes arising from the reduced rates on growth income, the Commissioner may make such adjustments as are necessary to protect the revenue. The doctrine of business purpose is reasonably well settled by the tax law, regulations, and court decisions, and such a provision should be unwelcome only to those who would seek to frustrate the purpose of this new plan.

TAX REDUCTION PAYBACK

Not only do we wish to encourage growth. We wish to discourage going backward after growth. Such a policy, coupled with a policy against whipsawing, prompts me to recommend what I call a tax reduction payback provision. It would require the voiding of a tax reduction based on growth income if, in the following year, the taxpayer's income decreases. The tax reduction would be voided according to the proportion that the decrease in the following year bears to the amount of growth income on the basis of which the tax reduction was computed.

For example, corporation A has taxable income—adjusted—of $100,000 for 1962, $100,000 for 1963, and $100,000 for 1964. It pays $46,500 tax for each year. It has no tax reduction for 1963 and 1964 because there is no growth income. On $200,000 combined income for 1963 and 1964 its combined tax is $93,000.

Corporation B has taxable income—adjusted—of $100,000 for 1962, $150,000 for 1963, and $50,000 for 1964. Its combined income for 1963 and 1964 is $200,000, and its combined tax is $93,000—the same as corporation A, computed as follows:

	1963	1964	Total
Taxable income	$150,000	$50,000	$200,000
Tax	72,500	20,500	93,000
Tax reduction	−13,000		
Tax reduction payback		+13,000	

If, instead of a decrease from taxable income—adjusted—of $150,000 for 1963 to $50,000 for 1964, corporation B dropped only to $125,000, the tax reduction payback would be only $6,500—one-half of $13,000 tax reduction for 1963 based on the proportion of the decrease of $25,000 in 1964 to the growth income of $50,000 for 1963.

The amount of the tax reduction payback would become a part of the tax due and payable for the year of the decrease in income. I do not believe it is necessary to require payment of interest inasmuch as the taxpayer will already have lost the use of tax money paid on the higher tax that would have been due for the growth year—even after allowance of the tax reduction.

My amendment has been drafted to prevent the application of the tax reduction payback under circumstances which have no particular relevance to the policy of encouraging growth; namely, retirement or death of a taxpayer, or losses due to fire, flood, drought, windstorm, theft, or other casualty, not covered by insurance or otherwise. Moreover, if the year following the growth year is a short taxable year due to termination of an estate or trust or due to liquidation, dissolution, or reorganization of a corporation, the income is to be annualized to see whether or not there has been a decrease in income.

I recognize that the tax reduction payback may not be popular, but it would leave a taxpayer in no worse tax position than he is now. Moreover, it might serve as a stimulus to prudent management. For example, a businessman who received a tax reduction of—say $5,000 in 1 year—would be inclined to use it to reduce his indebtedness, on the chance that his income in the following year might decrease and some or all of it would have to be paid back. Otherwise, he might be inclined to make an untimely or risky move.

The tax reduction payback, as I said before, is also needed to prevent whipsawing. The following example illustrates why this is so in the case of two corporations which, having the same base year income of $100,000, have $300,000 in income—without adjustments—over a 3-year period. It should be noted that corporation A has a $100,000 stable annual income for each of the 3 years; whereas corporation B fluctuates—or whipsaws—its income. Both corporations would have the same total tax to pay for the 3-year period; but this would not be true unless the payback provision applied to corporation B, along with the limitation that the base year income cannot be less than that of fiscal or calendar year 1962:

	Base year 1962	1963	1964	1965	3-year total
Corporation A:					
Income	$100,000	$100,000	$100,000	$100,000	$300,000
Tax	46,500	46,500	46,500	46,500	139,500
Tax reduction	(1)	None	None	None	None
Net					160,500
Corporation B:					
Income	100,000	150,000	50,000	100,000	300,000
Tax	46,500	72,500	20,500	46,500	139,500
Tax reduction	(1)	−13,000		[2] None	−13,000
Payback			+13,000		+13,000
Net					160,500

[1] Not in effect.
[2] Since income for this year of $100,000 must be measured against income of $100,000 for calendar year 1962, rather than against income of $50,000 for the 1st immediately preceding full taxable year.

I emphasize that with the tax reduction payback and other safeguards written into this plan, the possibility of manipulating income to reduce the cumulative tax burden is eliminated. Attempts to artificially induce an income cycle in which the rising phase exceeds 1 year will meet with failure. I have worked out numerous examples in an effort to beat the plan, but they are frustrated by the various safeguards that are built into the plan.

CONCLUSION

Like any other major plan of tax reform, this one has its minuses as well as its pluses. I recognize that many taxpayers would not receive any benefit from it, although the plan envisages extension of the tax reduction to the maximum number of taxpayers. Some are in a declining income position which is beyond their control. Others, including most Members of Congress, are on a stable earnings basis with little likelihood for improvement—although this plan will provide encouragement to make the most of opportunities for improvement.

Eliminating tax reductions of under $5 in the case of individuals and under $15 in the case of corporations will greatly reduce the administration required to implement this plan. Moreover, cost of living wage increases under escalation clauses do not really represent increased productivity, and the $5 limitation will eliminate most of these.

In those situations where weather conditions can have an important bearing on income—such as in the agricultural or construction industries—growth or decrease in income would naturally be affected regardless of the capital or labor contributed. However, the plan does have the protection against highly abnormal vicissitudes of weather; and where weather has had a severe impact on business or wage conditions, there will still be the incentive to work harder to make up for it.

But similar criticisms can be made of other tax-reduction provisions in the tax law. For example, faster depreciation methods and rates are meaningless to a taxpayer caught in the same tax bracket with or without them. Percentage depletion is meaningless to a taxpayer to the extent that it exceeds 50 percent of net income. The deduction for medical and hospital expenses means nothing to over half the taxpayers under 65, who either use the optional standard deduction or find such expenses exceeded by 3 percent of their adjusted gross income. Nevertheless these have been enacted because Congress considered that, on balance, they were in the national interest. I might also point out that the investment tax credit which the administration is backing so strongly would result in tax relief to only a comparatively small number of taxpayers.

Incentive taxation of growth income is entirely workable and administratively feasible. It would be simple for most taxpayers to compute their tax reduction because they would have few, if any, adjustments to make. Corporations and individuals operating a business would, in some cases, find it complicated. However, when we recall how complicated the excess profits tax law was, perhaps we should not be too impatient with a far less complicated proposal which will, unlike the excess profits tax law, reduce taxes, and provide an incentive for the business expansion so greatly needed to solve our unemployment problem.

Incentive taxation of growth income would, I am confident, spur capitalism and the free enterprise system on to victory over communism in the economic competition to which Premier Khrushchev has challenged us.

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

Mr. MILLER. I am very happy to yield to the Senator from Illinois.

Mr. DIRKSEN. Mr. President, the distinguished Senator from Iowa has previously advanced what he is stating to the Senate at the present time, and there is an article on it in the publication the Weekly Bond Buyer, September 4, 1962, under the heading "The Miller Plan." Altogether, it is a laudatory article. At this time I ask unanimous consent to have it printed in the RECORD as a part of my remarks, because it is very incisive. It sets forth the very captivating, effective new tax proposal, and I believe it deserves wide currency insofar as the CONGRESSIONAL RECORD can provide it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MILLER PLAN

WASHINGTON.—Judging from the rash of publicity that is being given to their current activities, it would be excusable to assume that Messrs. BYRD and MILLS, CURTIS and PROXMIRE, DOUGLAS and PATMAN, and perhaps one or two others, hold a tight monopoly on tax ideas emanating from Congress.

However, this is far from true, as the Republicans, to their sorrow, are belatedly discovering. Within their ranks, but virtually overlooked for the past 2 years, is one of the brightest, most articulate tax minds in Washington, freshman Senator JACK MILLER, Republican, of Iowa.

Senator MILLER, who staged an upset victory to win his seat in the 1960 elections, was an innocent victim of the Senate's archaic seniority rules when the party chieftains organized the Republican minority membership of committees at the outset of the 87th Congress. Otherwise, today he might be on the Senate Finance Committee—and the Nation, and the Republicans, might be the happier for it.

Last week, at the 17th annual meeting of the Tax Executives Institute, at White Sulphur Springs, W. Va., Senator MILLER uncorked a revolutionary new plan for tax cuts that brought the sophisticates upright in their chairs.

Senator MILLER, previously a private tax consultant in Sioux City and before that an "idea man" for the Treasury's Bureau of Internal Revenue, calls his plan "incentive taxation of growth income."

He claims it would cut taxes by one-half on the amount of increase in income (growth) over the previous year. It could become effective in 1963, and it would apply to individuals, corporations, estates, trusts, and partnerships.

"In its simplest terms," Senator MILLER says, "the plan proposes to tax any increases in adjusted gross income for individuals, or taxable income of estates, trusts or corporations over the adjusted gross income or taxable income for the preceding year at one-half the rates that would otherwise apply.

"This increase represents growth income and the tax cut would take effect only with respect to it. The reward of tax reduction would have to be merited."

Senator MILLER points out that under his scheme the Treasury would be assured of the same amount of revenue from the same amount of income as in the previous year, "so that the tax reduction under this plan would not cause a loss of revenue and a consequent loss in purchasing power of our money."

The Iowan recognizes that Government spending increases in anticipation of increased revenues might have to be curbed. But, these should be curbed anyhow—as the administration learned in the disappearance of its promised balanced budget for fiscal 1963, which was based on excessive optimism over the revenue increases for the current year.

Senator MILLER suggests that "the prospect of paying tax at only one-half the regular rate on growth income would be a tremendous incentive to taxpayers to increase their productivity.

"Wasteful or marginal costs," he says, "which are too often tolerated because they are tax deductible, would be reduced or eliminated.

"Tax reform is built into the plan, because taxpayers would have an incentive other than that furnished by the revenue agent, to avoid unnecessary or excessive expenditures. Such expenditures, if permitted to continue, would only reduce their growth income and their tax reduction. We could expect real improvement in our rate of economic growth."

Another way of viewing Senator MILLER's plan is as a sort of excess profits tax in reverse.

In short, rather than being penalized for sharper management, improved production techniques and more skilled marketing and advertising programs—factors which produce greater profits and hence, growth—industry managers would be rewarded by tax cuts in proportion to their proven skills and entrepreneurial abilities.

Senator MILLER, who has acquired a nice veneer of political savvy to accompany his awareness of the tax facts of life in his 2 years in the Senate, says he is totally sympathetic with the proposals made by Representatives A. S. HERLONG, of Florida, and HOWARD BAKER, of Tennessee, for a gradual reduction in individual and corporate rates.

"However," he says, "the Herlong-Baker suggestion presupposes a stable purchasing power of our money—a condition that is virtually impossible so long as Congress will refuse to reduce spending to make room for tax cuts.

"It also assumes a period of growth at still some undetermined annual rate—an assumption that might not materialize and, if it didn't the consequences could be serious."

"What is needed," he continues, "is a tax reduction that will be a realistic incentive, which will not pay out the rewards of tax cuts, unless the objective of growth is fulfilled. Also, a change is required that will operate without jeopardizing the purchasing power of our money, and which acknowledges the political realities existing in Congress and the administration."

What is also needed is some fresh Republican blood on the Senate Finance Committee, whose majority and chairmanship will again be held by the Democrats next year, barring some major political upheaval.

If the GOP policymakers in the Senate see fit to correct the error of 1960 caused by almost blind adherence to the rules of seniority, the Senate Finance Committee could have in Senator MILLER a first-rate teammate for Representative JOHN BYRNES, of Wisconsin, who will be the ranking Republican member of the House Ways and Means Committee next year.

Mr. DIRKSEN. Mr. President, in conjunction with the distinguished Senator from Iowa, I discussed this question with the chairman of the Finance Committee, the Senator from Virginia [Mr. BYRD]. I am not only hopeful, but encouraged by the fact that the distinguished Senator from Virginia will be quite willing to have some staff work done on this matter between now and the next session.

Mr. MILLER. I thank the Senator for his kind remarks. I have the assurance of the senior Senator from Virginia, Chairman of the Finance Committee, that he will turn this matter over to the staff of the Joint Committee on Internal Revenue Taxation for its study this fall. I welcome such a study. I wish it had been possible to have had a study before now. I wish it had been possible for my proposal to have been studied and presented after appropriate hearings so that it could have received the kind of consideration which I believe would have warranted its adoption by the Senate so that tax relief of a constructive form could begin at once. But this is a reasonable assurance, and I appreciate it.

Mr. DIRKSEN. It is a most engaging idea, and since it deals with incentive and with growth, certainly the plan merits real study.

Mr. MILLER. Mr. President, as indicated earlier, the chairman of the Finance Committee, the senior Senator from Virginia, has very graciously agreed to have this proposal referred to the staff of the Joint Committee on Internal Revenue Taxation for study. With that assurance, I withdraw my amendment.

The PRESIDING OFFICER. The amendment of the Senator from Iowa is withdrawn.

EXHIBIT 1

[From Fortune magazine, August 1962]

THE RIGHT KIND OF TAX CUT

On the lawn of any racetrack you can hear after the finish that "he" whipped the horse too much or too little, that "he" made his move too late or too soon, that "he" should have taken the animal inside instead of outside (or vice versa). All of this, though usually spoken in bitterness, is a tribute to the importance of jockeyship. But in many cases the tribute is exaggerated. As Ted Atkinson, speaking for all candid jockeys, once put it, "In racing the chief athlete is the horse."

We have not been spending the summer along the rail—the horsey metaphor was thrust upon us by the vocabulary of this summer's discussion of the financial news. It's amazing how often the word "spur," for instance, turned up, as in "Tax Cut Urged to Spur Economy." And as we go to press the administration is considering whether to present to Congress a tax-reduction bill of just that type.

We'd like to see a tax cut, and the sooner the better. But a quickie tax cut to last for only 1 year, say, a cut designed primarily to spur business during the next few months, isn't going to do any real good. What's needed is a permanent cut that rises out of the realization that the basic condition of the business system—the chief athlete—has been hurt by the size and shape of the present tax structure. A cut will increase this year's expected Federal budget deficit, which is as grave a concern to us as to any Congressman. Some advocates of a cut point out that the stimulation would generate enough business to offset the deficit. We can scarcely believe that it would have that immediate effect. But there is no reason to assume that our only long-range choice is between present tax levels and a succession of Federal deficits. Government expenditures can be reduced to a smaller proportion of national product, and indeed if a permanent tax cut is to make any sense they will have to be reduced. We have to begin cutting taxes sometime, and we can think of no better time than right now.

UNDERNOURISHED INVESTMENT

This summer's financial news, centering on the stock market drop, has been dramatic and suspenseful. But we will not understand the present situation if we isolate it from previous danger signals and disappointments in the economy. In 1960, for instance, when John F. Kennedy promised to "get this country moving again" he was assuming that the economy had bogged down. His proposed remedies involved a more active Government role in guiding and stimulating the economy. But the developments of 1962 suggest that some of the trouble may lie in what the Government is already doing.

The general health and spirit of business are both measured and affected by the level of profits. An article called "U.S. Business in Suspense" discusses how the present profit squeeze deprives business of funds needed for expansion and at the same time weakens the incentives for expansion. Among the main factors in the profit squeeze are the high level of Federal taxes and the way taxes are concentrated upon those parts of the economy that should produce investment funds. The U.S. economy's need for investment has not been adequately understood. We have maintained in the postwar period a level of gross capital formation that is more than 20 percent of gross national product. But most of this goes to offset the consumption of capital in the huge U.S. industrial plant. The significant change is in net capital formation—which represents growth. Until 1929 net capital formation ran above 10 percent of gross national product; in the postwar period it has been only about 6 percent. This change is one of the main reasons why incipient booms abort, why a high rate of unemployment persists, why the national growth rate has slowed down.

THE GREAT DEPRESSANT

When do taxes, which are never welcome, become really excessive? President Kennedy, who says he likes sophisticated economic arguments, can read plenty of them on the theoretical limits of tax capacity. Some economists believe that a tax burden that exceeds 25 percent of net national product will overload any economy. (The present take of Federal, State, and local taxes amounts to about 29 percent of the net national product.) Other theoreticians argue that the distribution of the tax load matters more than its total weight.

But the present U.S. tax structure is sponsored by no economic theory. It just grew out of a combination of crises, wars, emotional economics, and crude efforts to use the taxing power as an instrument of social justice. Long before the New Deal, an idea flourished that the inequalities of wealth could be leveled off somewhat by progressive taxes on incomes. In the depression, very heavy increases in these taxes were voted (contrary to all prevailing economic theories of recovery), partly in a spirit of vengeance against the rich and the business system. World War II acted as a kind of multiplier on these misconceived taxes. A couple of postwar tax cuts, then the Korean war tax boosts, then the modest Eisenhower cut of 1954—and that's the tax structure. Nobody designed it. Nobody takes credit for it. And hardly anybody defends it.

Such a tax setup has to be judged by experience rather than theory. But through most of the period of the present structure's existence its effects have been masked by inflation. In such a period rising values invite equity investment; business planners hasten expansion, believing that the cost will be higher for every year of delay. Experience in those years seemed to contradict those who had warned that the tax level would dry up investment. In 1955, Harvard's Prof. J. Keith Butters told a congressional committee he could find little evidence that the tax system had caused an undersupply of risk capital. But he went on to warn that "conclusions as to the extent to which the tax structure stifles the flow of risk capital during a period of high business activity cannot be applied without modification to a time of declining business activity and investor pessimism. * * * The tax structure would be far more repressive * * * in a declining period."

Indeed, it became far more repressive as soon as the upward price spiral flattened out in 1958. But the United States was slow to recognize that in the new situation the old taxes were having a much more serious impact on business. Federal expenditures continued to rise, and warnings on this point were met by the apparently practical argument that the same tax rates had not prevented prosperous years in the fifties.

Most of the tax-cut discussions of the spring and summer of 1962 have been proceeding on the unspoken assumption that Federal expenditures cannot be cut. But the present level of Federal expenditures is not forced upon us by some inexorable law of nature. True, defense expenditures are forced upon us, but the part of the Federal budget that has been rising most rapidly in the last decade has been the nondefense portion. "Needs" are unlimited. * * * If present Federal tax rates are left unchanged and the economy continues its recent slow rate of growth, the Federal Government in 1970 will be collecting about $130 billion a year. Will it be able to spend that much? Foolish question. President Kennedy, just in his first months in office, proposed expenditures that, had Congress approved, might have added an extra $10 billion to expenditures now running around $90 billion.

A 5-YEAR PLAN

As animals go, horses are pretty dumb. They don't know that the harder they try and the more they win, the heavier will be the weight the racing secretary puts on them the next time out. Even so, horses seem to get discouraged by high weights. Businessmen, who are less sophisticated than Harvard economists but not so dumb as horses, have been pervaded by the deadening prospect that the tax burden will go on and on. Every investment decision on a corporate agenda in the summer of 1962 must be considered under the depressing knowledge that it must struggle to pay for itself under a future tax burden that will weigh down upon the whole economy. This forbidding long-range prospect will have to be changed.

We don't know what, if anything, Congress will do about taxes before it adjourns this summer. A cut in the corporate income tax would be the most useful part of any immediate tax reduction. A cut from 52 percent to 47 would increase corporate earnings after taxes by 10 percent, encourage business investment, and benefit everybody. This would cost the Treasury about $2.5 billion. An at least equal reduction in the personal income tax take would presumably be the political price of the corporate cut, and perhaps do the economy some good in the next few months. But neither corporate nor personal income tax cuts will accomplish anything at all if they are presented as momentary Federal largess for a momentarily faltering economy. Tax cuts, whether they come now or next January, must be made in such a way as to show that public

policy has established a new level of what is considered a tolerable long-range tax burden. We favor cutting by installments, for example, spreading the cuts over a 5-year period (as in the Baker-Herlong bill). There is a very good chance that businessmen, realizing that they were investing for an economy with a decreasing tax burden, would begin immediately to make expansive decisions.

A lower level of tax rates (and Government expenditures) over a period of years should be accompanied by a thorough revision of the present tax structure. Many reforms are needed, but a change in the present emphasis on income taxes is surely one of them. Very few countries count so heavily on personal income taxes as does the United States—and only Great Britain has as high a corporate profits tax. This emphasis inhibits investment and distorts business decisions. But when tax consequences become a dominant factor in business decisions, the efficiency of the whole machine is impaired. We became so fascinated by the idea of taxes graded to ability to pay that we have reduced the economy's ability to progress.

An era of rapid scientific and technological progress offers opportunity that can be seized only by an abundance of capital, flexibly deployed. International competition in the years ahead may make this opportunity a rather grim necessity.

In April 1958, confronted with another of these chronic discouragements in the business outlook, Fortune said: "What the country needs most today is no flash-in-the-pan panaceas, and no panicky rush for purchasing-power hypodermics. What it needs is a restoration of normal incentives, acknowledgment of the basic role of profits in the system, and reassurance that the Government understands the true nature of a profit-and-loss economy."

We say it again.

[From the Wall Street Journal, Aug. 31, 1962]

DOWN ON THE LEVIES—PRESIDENT'S DRIVE FOR TAX REFORM IS HOBBLED BY LAWMAKERS' CHANGING VIEW OF RATE CUTS

(By Robert D. Novak)

WASHINGTON.—The hoary maxim that Congress will swallow the most bitter tax reform schemes if they are sweetened enough by tax cuts may be ready for consignment to the scrap heap of outworn adages.

This is the long-range conclusion that may be drawn from Congress' remarkable reluctance to nibble at the tax reduction bait dangled this summer by President Kennedy. The summertime events pose this question: If the lawmakers this year disdained a straight tax cut with no strings attached, how can they be expected next year to embrace a tax cut encumbered by onerous revenue-producing reforms drawing fire from powerful lobbies?

And if the "sweetener" theory of tax reform must indeed be discarded, then the outlook for the Treasury's grand design of overhauling the tax structure before Mr. Kennedy faces reelection in 1964 must be changed from doubtful to pretty near impossible.

Not since those heady days when the New Frontier first opened in Washington some 18 months ago has anybody regarded tax reform as anything but a grim and hazardous chore. The agonizing and still uncompleted task of guiding through Congress what they consider a minimal tax revision bill has been a sobering experience for Mr. Kennedy's bright young men at the Treasury, who once talked hopefully of Congress completing a full rewrite of the tax laws before the 1962 elections. Those old hands on Capitol Hill with previous experience in the jungles of tax legislation never had any illusions about the size of the task.

TOO RESTRICTED, TOO SMALL

But until this summer's abortive try for a quick tax cut, both the new faces at the Treasury and the veterans in Congress attributed much of the difficulty encountered by the 1961–62 tax revision bill to its lack of sweetening tax reduction provisions. The bill's proposed tax credit for businessmen who purchase certain kinds of equipment, it was reasoned, was too restricted, too small and too novel to win any widespread support from business. Far from serving as a sweetener to ease passage of the bill, the investment credit has proved more difficult to pass than most of the revision measure's revenue-producing provisions.

On the basis of this experience, the tax writers came to believe that the revision bill would have traveled a smoother road to passage had it included across-the-board cuts in personal and corporate income tax rates. Because the major reform bill next year will contain just such a tax cut plan, they concluded, its prospects for approval might be fairly good.

Treasury officials insist that this reasoning remains essentially valid. They point out with some accuracy that the possibility of a tax cut was raised so suddenly this summer, after the stock market decline, that public sentiment for it never had a chance to grow. Moreover, there was an understandable prejudice in Congress against a tax reduction presented as an emergency measure to stimulate the economy at a time when most lawmakers did not believe the economy was in such bad shape. Things will be different next year, say the Treasury men, when support for tax reduction has gone through more than 6 months of gestation and the cut will be advanced as part of orderly and permanent tax reform rather than as a temporary expedient.

APPARENT PUBLIC INDIFFERENCE

However, this reasoning tends to ignore some of the most interesting aspects of the recent debate over a quickie tax cut. A surprisingly large number of Congressmen showed they simply do not believe there is much political advantage to be had from cutting taxes in these days of wage withholding. What's more, the apparent public indifference to tax reduction is causing a reexamination of the political facts of life by those lawmakers who cling to the time-honored theory that a drop in income tax rates pays off on election day.

Barring a severe economic slump in the coming months, the mood on Capitol Hill next January is likely to be mildly receptive to tax reduction—but not at any price. In other words, Congress is not apt to desire tax cuts so much that it will lower its guard against Mr. Kennedy's reform schemes.

The tax legislation dilemma confronting the administration comes into focus more clearly when talk of reform shifts from grand generalities to hard specifics. It's not easy to find anyone today willing to predict that tax reduction would induce Congress to accept any of the major reforms under consideration at the Treasury: Reduction of depletion allowances for oil and gas, limitations of the type of earnings that qualify as capital gains, cuts in tax deductions for interest payments or charitable contributions, reduction of the tax credit for retired persons—or even the pending proposal for tax withholding on dividend and interest income.

Moreover, the validity of the sweetener theory of passing tax reform bills has diminished, not only as a result of unexpected congressional apathy toward tax reduction, but also because of a change in the emphasis of the administration's plans for tax reform.

At the heart of the sweetener theory is the implied threat that the President would veto any tax reduction bill that has been stripped of his major revenue-producing reforms. But the administration has made clear in recent months that it regards across-the-board tax cuts not as merely a sweetener but as the most important ingredient of tax reform and a necessity for accelerated economic growth. Thus, the impression has grown in Congress that Mr. Kennedy gladly would accept a tax cut next year even if it included nary a revenue-producing feature.

THORNY PROBLEMS

The President strengthens this impression when he talks of passing a tax bill early next year with tax cuts retroactive to January 1, 1963. Even with unprecedented luck for the administration, Congress could not complete action on a comprehensive reform measure until sometime in 1964. Consequently, lawmakers seem justified in assuming that Mr. Kennedy really is talking about a simple tax cut for 1963.

But passage of such an unencumbered tax reduction bill poses problems not a great deal less thorny than those facing a comprehensive reform measure. Congressional hostility toward tax reduction this summer, stemmed in large part from fears by rank-and-file Democrats that voters would turn against Congressmen who deliberately voted to expand the Federal budget deficits through tax reduction. More important, this opposition to straight tax cuts in times of deficit spending is found among the senior Democrats in Congress most influential in the tax legislation field.

Representative MILLS of Arkansas, the enigmatic Ways and Means Committee chairman, intimates in his customary Delphic manner that tax reduction must be a part of a general reform measure and should not result in a net revenue loss unless the Federal budget is balanced. The Senate Finance Committee's two top Democrats, Virginia's Senator BYRD and Oklahoma's Senator KERR, state their positions clearly: No net tax reduction while the Federal Government is running in the red.

KERR'S ROLE

But Senator KERR, whose support is absolutely necessary for any tax bill in the Senate, leaves a loophole. The Oklahoman suggests that he would support a 1963 tax reduction if accompanied by a cutback in Federal spending of around $3 billion or more. Furthermore, the talk on Capitol Hill of a combined tax cut and spending cut no longer is confined to fiscal conservatives. "I'm afraid it's the only way we can get a tax cut bill," gloomily concedes a prominent liberal Senator.

Yet, Mr. Kennedy would have to perform the most spectacular philosophical somersault of his career to accept the Kerr formula. It would constitute a direct repudiation of the President's top economic counselors, who regard diminished Government spending during slack economic times as the height of folly and deflationary in nature. Even Treasury Secretary Dillon, one of the more conservative New Frontiersmen, has expounded this theory repeatedly in testimony before congressional committees.

Even if the President were tempted to consider the acrobatics, which is unlikely, the problem of just where to cut spending would remain. A slash in nondefense outlays would mean a tacit abandonment of some of the Kennedy administration's most cherished programs and policies. A reduction in defense expenditures would require an assessment by Mr. Kennedy that cold war tensions are easing—an unlikely assessment in view of the present world situation.

In truth, there is not now an obvious way for Mr. Kennedy to get any kind of tax bill—comprehensive or straight rate reduction—out of Congress next year. The forecast may be premature, but there is a growing belief that the mangled tax revision bill now limping along toward passage, may be the only general revenue measure passed by Congress during Mr. Kennedy's first term.

Consequently, Democratic politicians fear that if the President proclaims tax reform as his top legislative goal for 1963–64, he may be in for still another humiliating rebuff at the hands of Congress.

Mr. JAVITS. Mr. President, I send an amendment to the desk, on behalf of myself and the Senator from Minnesota [Mr. McCARTHY], and ask to have it stated.

The PRESIDING OFFICER. The amendment offered by the Senator from New York for himself and the Senator from Minnesota will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 193, after line 22, to insert:

(g) CORPORATIONS INCORPORATED IN COUNTRIES OF THE EUROPEAN ECONOMIC COMMUNITY.—For purposes of subsections (d) and (e) of this section, a foreign corporation which is created or organized under the laws of a country of the European Economic Community shall be treated as being created or organized under the laws of each country of the European Economic Community. For purposes of the preceding sentence, the countries of the European Economic Community as of any date shall be those countries which on such date are agreed to achieve a common external tariff through the European Economic Community.

Mr. JAVITS. Mr. President, I sent the amendment to the desk on behalf of myself and the Senator from Minnesota [Mr. McCARTHY]. This is probably the last chance which we shall have in respect of this bill to do anything about the new concept of taxation on corporations which have subsidiaries abroad and which are manufacturing and selling abroad. This is by all odds the minimal amount of relief which should be afforded in the interest of America's trade position. I would like to emphasize that.

What the amendment does is to provide that any corporation set up within the Common Market area is deemed to be a corporation of every country within that area and does not have to be separately incorporated in that country. This involves more than a mere saving of incorporation expense.

It would have tax implications. The scheme of the pending bill is to place a tax on a company when a foreign company sells through sales outlets in any country other than the country in which the product is manufactured. The tax consequences could be avoided, if the amendment were adopted, for a company which manufactured in the Common Market and sold in the Common Market, even though the company might set up sales outlets in the individual countries of the Common Market. That is the purport of the amendment.

There is a valid reason for the amendment. It is clear that one of the things which the Senator from Minnesota [Mr. McCARTHY] and I and other Senators have been pressing in the field of foreign corporate taxation is the competitive angle; that is, the fact that American corporations are now competing with corporations of other countries in an effort to sustain the export position of the United States. To sustain that position it is necessary for them to manufacture abroad. The corporation is taxed abroad. The bill would tax the same operations at home.

We have contended that competition is what makes it so difficult for the American corporation moving into those areas. The competition is nowhere more keen and nowhere more evident than in the European Common Market. If the Common Market treats itself as an economic unity, the proper question which we must ask, before we leave consideration of the pending bill—and that will be the end of the matter, so far as American companies which manufacture and sell abroad are concerned—is, "In order for American companies to compete, should we not treat the European Common Market as an entity?"

That is the opportunity which is afforded to the Senate by the amendment. As I say, it is a minimal amendment on the issue of competition, and should be agreed to.

After conferring with the Senator from Minnesota [Mr. McCARTHY] I have confined the amendment only to those two sections of the bill which relate to sales of articles which are manufactured, produced, grown or extracted—tangible personal property—and services, which are also covered by the bill, again when the services are sold. I have omitted the foreign holding companies, so as to avoid getting into the question of securities transactions, havens, and so on. We are dealing now with American corporations which actually are making goods or rendering services, and the freedom of their operations within the limitations of the new tax approach within the European Common Market.

Mr. President, this is a very serious matter. As I say, this is probably the last opportunity any of us will have to do anything in terms of trying to rationalize the picture of competition between American firms operating abroad and their foreign competitors.

If Senators will refer to page 79 of the committee report they will find how the new concept of taxation is applied. I quote from the second full paragraph on page 79 of the report, referring to U.S. corporations: "for their income from foreign sales subsidiaries which are separately incorporated from their manufacturing operations."

I ask Senators to look at page 84, under the heading, "Foreign Base Company Sales Income." The explanation at the top of the page is as follows:

Foreign base company sales income is income derived from the purchase and sale of personal property if the property is either purchased from a related person or sold to a related person.

That refers to the closeness of the relationship as between the U.S. corporation and its subsidiary. I continue the quotation:

However, this applies only where the property purchased is manufactured, produced, grown, or extracted outside of the country where the controlled foreign corporation is organized and the property also is sold for use, consumption or use outside of that country.

I ask Senators to refer to the language in the paragraph relating to foreign base company services income, in the last full paragraph on page 84:

As in the case of sales income, the purpose here is to deny tax deferral where a service subsidiary is separated from manufacturing or similar activities of a related corporation and organized in another country primarily to obtain a lower rate of tax for the service income.

The amendment would provide that if a service company or a sales company were organized in any one country within the European Common Market area—that is now six countries, but it may be a greater number as we go along—it shall be deemed to be a corporation of the same place as the corporation of manufacture, when that corporation is itself within the European Common Market area.

I emphasize that, because I wish to make it perfectly clear that tax consequences are envisaged by the amendment. It does not merely relate to the relatively slight expense of organizing a corporation. It would treat the whole Common Market area, as it were, as one country for the tax implications of the bill as it relates to foreign corporations, provided one is dealing only with operations which deal with manufacture or with services, and excluding the whole personal holding company concept.

In this connection, I refer to the statement which was introduced by our distinguished colleague who is in charge of the bill [Mr. KERR], which appears in the CONGRESSIONAL RECORD for August 30, 1962. I refer to the memorandum explaining the view of the Treasury Department on the proposed Trade Expansion Act of 1962, which is now being considered by the Finance Committee. It explains with crystal clarity on the highest level of our Government the reason why I say—which I believe is completely supported by the statement—that the European Economic Community must be considered as a single market in which American companies must compete with other foreign producers who will be operating in that market.

American companies are going to be seriously disadvantaged by the tax consequences of the pending bill. This is an effort to reduce somewhat the extent of that disadvantage.

I wish to read from the memorandum prepared by the Secretary of the Treasury and sent to the Senate Finance Committee in respect to the proposed Trade Expansion Act of 1962:

As the domestic economy grows, American demand for imports will become greater. Despite our best efforts, outlays abroad for the national defense, aid, and investment will continue to be large. If these payments are to be met, the United States must export more. The necessary expansion of exports can occur only if, through negotiations, the doors to major foreign markets—and especially the new and expanding Common Market of Western Europe—are opened wider for U.S. products.

The six countries which formed the European Economic Community have now established their common external tariff, and are expected to bring it into full effect when their transitional period is over, at the latest by the end of 1969. Also, they are rapidly reducing the tariffs which apply to their trade with one another and are committed to eliminate them altogether by the end of 1969. The common agricultural policy, and the terms of continued association with newly independent countries which were formerly European colonies, are rapidly tak-

ing shape. The United Kingdom is expected to join the European Economic Community, and others may well follow. The resulting expanded Common Market will constitute a giant new economic unit within the free world.

I emphasize those words—

will constitute a giant new economic unit within the free world. If U.S. exports are to be expanded to the necessary extent, liberal access to the Common Market is absolutely essential.

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

Mr. JAVITS. I yield.

Mr. BUSH. I think the Senator makes an excellent case for the contention that we should recognize that the 6 countries—which may grow to 7, 8, 9, 10, or more, if the Outer Seven come in, eventually—are one unit from an economic standpoint, and from a trade standpoint.

I fail so far to grasp what are the tax implications of the Senator's amendment. So far as an American company owning a subsidiary abroad and operating in one of the Common Market countries is concerned, I understand that if it is operated in one, it is to be considered as though operating in all. It would be one for all and all for one, under the Senator's amendment. What would be the tax effects, as they might affect such a company?

Mr. JAVITS. The tax effects would result if the income realized on sales, according to the bill, were realized from a corporation which was a sales company incorporated in the country other than the country in which the manufacturing of the subsidiary took place. For example, American corporation X might have a subsidiary which did manufacturing in France. It would sell in Italy through a sales corporation. The sales income then comes under the inhibitions of the bill in the sense that it is taxed immediately to the American stockholder, even though it is not actually received. That is the fundamental tax change made by the bill.

On the other hand, as to a sales company in France for an American corporation manufacturing through a subsidiary in France, there is no such tax consequence.

Therefore, the amendment would transform the whole Common Market area into a situation analogous to the one I have stated with respect to a subsidiary manufacturing in France and selling in France. That is the way in which the scheme of taxation in the bill is traced out. I have made the amendment, therefore, to apply both to a sales operation in which tangible goods are involved, and to the business of selling services—as, for example, an accounting firm or a company servicing various types of appliances and machinery, some other management service, or some other tangible operating servicing company. Those are the two types of companies to which I have applied the scheme as it relates to the integrated European Common Market. So the tax consequences would then not flow if the whole operation were conducted with the Common Market, as provided by the bill. The tax consequences, therefore, would be analogous to the situation in which the manufacturing and selling would take place in one country, which, as the bill is drafted, does not come under the particular tax applicability which is now established by the bill. That is the thrust of the amendment. The purpose of it is to do what we can to rectify the competitive situation as between other foreigners operating within the European Common Market and ourselves.

One final fact and I shall be through. I point out that business with the European Common Market is a critically important aspect of the American trade surplus. The same memorandum of Secretary Dillon to which I have referred shows that in 1961 we had a surplus in trade with the Common Market of $1.3 billion, that is, we exported $3½ billion; we imported $2.2 billion. We had a surplus in agricultural goods of $1.3 billion. Even in nonagricultural goods we had a surplus of $400 million. That information comes directly from Secretary Dillon's memorandum.

This will grow in importance. The standard of living in the European Common Market is rapidly rising. Many American companies are finding it possible to move into the Common Market with a part of their operations. The proposal would not result in an export of American jobs, in my opinion. I think that is a very fallacious position, because it has been demonstrated time and again in testimony before the Joint Economic Committee and many other committees that in the export of parts, management skills, and original machinery for the purpose of settting up branch plants abroad, the American economy prospers.

In addition, it is impossible to compete in terms of exports at all. Unless we engage in those operations we will lose material opportunities in the export market which we want.

In short, it is not a question of exporting our jobs or exporting our opportunity to export. It is a question of maintaining our competitive position in the field and improving and expanding that position by new techniques, in view of the fact that old techniques are being invalidated by competition and by such things as the European Common Market.

As I have said, I believe this is the last opportunity for us to do anything in respect to the bill. It is some effort to right the competitive situation which will be faced by more and more American companies abroad, especially as new trade legislation is passed. I am the first to state to Senators that participation by American business in the export field is very poor. It represents about 3,000 firms, about 5 percent of the total. One of our great problems is how to increase materially small business participation in the export field. Of course, it can be materially inhibited by adverse tax laws. One effort is being made in the amendment offered by the Senator from Minnesota [Mr. MCCARTHY] and myself to equate and alleviate the risks of the new tax scheme—and it is new; it has not been done before—in dealing with a new entity, a new economic problem of competition in the European Common Market.

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

Mr. JAVITS. I yield.

Mr. COOPER. Am I correct when I say that the bill as reported by the committee would provide certain advantages in the way of tax consequences to a company which has a manufacturing plant in more than one country in Europe?

Mr. JAVITS. It would. If the company sells in the same place, it would find itself free of the new tax consequences in the bill.

Mr. COOPER. But it must be a manufacturing company, producing in each of the countries, or in more than one country.

Mr. JAVITS. Exactly.

Mr. COOPER. There would be some way of averaging the local taxes which would be charged against the company. Then, as the Senator has said, the thrust of his amendment would be to make that advantage available to a company which, say, had a manufacturing unit in one country and a sales unit in another country in the Common Market area.

Mr. JAVITS. Provided it was within the Common Market area. The Common Market area is treated as if it were one country.

Mr. COOPER. What is the basis of the Senator's argument that the sales company should be given the same advantage if it is acting for a manufacturing company, that is, a subsidiary of that company or its agent, as would be the situation under the committee bill in which it must be manufacturing in more than one country?

Mr. JAVITS. The argument is that the competitive area—in the present case the European Common Market—is not a single country. It is the whole European Common Market area. Therefore, we would be materially disadvantaged in the European Common Market area if we were to visit the consequences of the new tax scheme upon corporations operating within that area merely because they must engage in selling in the various countries of that area which fall under the new provisions of the bill. That is what my amendment is designed to avoid, if at all possible.

Mr. KERR. Mr. President, I rise to oppose the amendment of the Senator from New York. The Senator has said that the European Common Market is a single economic unit. That is true. But it is certainly not a single tax unit. The committee spent many weeks rewriting the foreign tax provisions, or the tax provisions with reference to foreign corporations domestically owned or controlled. The Senator's amendment would entirely destroy that part of the bill. The Senator's amendment would legalize tax havens to as great an extent as they are now legal under existing law. If the amendment of the Senator from New York were agreed to, the effort that has been made to discourage foreign tax havens would be nullified. His amendment would exempt from taxation under the bill dividends and income from one foreign corporation to another or to

others in every country in the European Economic Union or Common Market, now 6 in number—perhaps soon to be 8, 10, or 12.

Mr. CAPEHART. What about the other countries?

Mr. KERR. Only as they would become members of the European Economic Union would the Senator's amendment apply.

One of the things the bill attempts to reach is the situation of a Swiss corporation acting as the sales agency perhaps for a corporation which someone in this country owns in Germany. It manufactures something there and makes a little profit on it in Germany. Then it sells its product cheap to a Swiss corporation, which in turn sells it anywhere around the world. The profit accumulates, and it is kept in the Swiss corporation and is not subject to American tax.

In view of the fact that Switzerland may probably become a member of the European Economic Union, or perhaps Liechtenstein or Monaco, which countries have no income tax whatever, under the Senator's amendment, if a corporation were a resident of Switzerland or Monaco or Liechtenstein, it would have the privilege under the amendment of selling anything manufactured anywhere in the world in the European Economic Union, make its profit, and keep the profit free from taxation under our laws or under the pending bill.

In other words, the choice is between legislation which would correct the present abuses of tax havens and the Senator's amendment, because if we adopt the Senator's amendment we destroy the provisions of the bill calculated to eliminate tax havens.

As the House passed the bill, it did two things, as the Senator from Tennessee has so often said on the floor of the Senate. First, it eliminated tax havens. Second, it taxed deferred income of foreign corporations as it was earned before it was brought back to this country. The committee took that provision out of the bill. The committee acted on the theory that earnings should be taxed when put into the hands of the taxpayer, not while they are still in the hands of the corporation in which the taxpayer owns stock, and which have not yet been declared by the corporation to the stockholders.

We thought that was not a reasonable provision in the House bill, and we took it out of the bill. However, we maintain the provisions of the bill—I will say on a much more liberal basis than the House provision—with reference to the elimination of the tax havens. The Senator's amendment would eliminate all that the committee did to stop tax havens. Since the committee adopted the House provisions with reference to taxing deferred income, if the Senator's amendment is adopted there will be no purpose whatever, as I see it, for the bill.

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

Mr. KERR. I yield.

Mr. McCARTHY. I believe that the Senator from Oklahoma and the Senator from New York have stated the situation correctly. The Senator from New York believes, as I do, that it would be a good thing for us to be within the European Economic Union for the purpose of competing in that area. The committee bill places handicaps in the way of effective competition, as we see it. It is the opinion of the Senator from New York, which is shared by me, that both our balance of payments and the stimulation of the economy, including the increase in employment, would be helped by our being active in that competitive market.

The Senator from Oklahoma is quite correct in saying that the action of the committee does not interfere with or hamper the action of American firms in that area. We could departmentalize the provisions as between the various countries, and thus put ourselves at a great disadvantage, to the extent that the firms over there would be in competition with goods produced in the United States, but such competition means very little; on the other hand, it would put them at a great disadvantage in competition with European producers, who compete with them most strongly and most actively in that area.

Switzerland is not now a part of the European Economic Community. In the years to come it may become a member, but at the present time it is not. The Swiss subsidiaries are not used primarily for avoiding the payment of taxes. The Swiss corporations are usually used as a device by which American firms doing business in other European countries are able to take the income out of higher tax countries and put them into a low tax country. Instead of paying high taxes, they use Switzerland, where the tax rate is lower. When the money is repatriated, they pay more taxes to the United States than they otherwise would if they had no Swiss subsidiary.

Mr. KERR. The Senate very decisively defeated the unreasonable accumulated tax substitute offered by the Senator from Minnesota with reference to the operation of the Common Market as it is now or as it may become. The amendment of the Senator from New York is far looser, or goes more in the direction of tax havens than did the amendment of the Senator from Minnesota. The adoption of the amendment would create an irresistible magnet in the most highly developed industrial area in the world outside of our own, for American capital to be used in building industrial competitive facilities for trade and commerce over there in competition with the trade and commerce that is sought to be built here.

The Senator's amendment would create an irresistible magnet for the exportation of American capital, American business, and American jobs, because insofar as the European Economic Union is concerned, their operations would be practically free so far as they continued to invest money. If they could have it free from taxation by this Government, they would do so.

The highly developed industrial area of Western Europe is the place where that is needed least of all.

We made provision in the bill for certain exemptions with reference to expansion of American-owned industry in undeveloped areas, because in so doing we bring about a situation in which we encourage the exportation of American products for the development of those economies. We believe it is needed there. However, the Senator's amendment would make that provision available where it is needed least, where the industrialization practically equals our own.

Therefore, it would carry forward not only the abuses now in the law with reference to tax haven exemptions, which are sought to be corrected by the proposed legislation, but it would also do so in a manner calculated to be most effective in siphoning off American business for investment over there and siphoning off jobs which otherwise would be created or maintained in American industries, to give those jobs to workers abroad and provide an ever-stronger industrial complex there to compete with us in the markets of the world, and with our own domestic industry for the domestic market here.

Mr. JAVITS. Mr. President, I believe the Senator from Oklahoma, who is a very eloquent man, has obviously let his eloquence run away with him, and has completely overlooked the facts. I should like to make clear what I am talking about in that regard. The Senator says that if my amendment, in which the Senator from Minnesota joins, were adopted, certain corporations would be free from tax. That is not correct. They would not be free from tax. Their tax status would be the same as it is now, not as changed by the bill, but the same as it is now. Whenever they repatriated any capital, they would pay taxes to the United States, just as they are paying them now.

Mr. KERR. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. KERR. What does a corporation in Switzerland pay in taxes to this country?

Mr. JAVITS. I said when the capital was repatriated. We are talking only about American companies which have subsidiaries and sales corporations abroad. We are not talking about Swiss companies. We cannot tax such companies unless they have a relationship to American companies. The Senator had argued that under this amendment such corporations would be free of tax.

Mr. KERR. The Senator from Oklahoma said that if and when Switzerland or Liechtenstein or Monaco came into the Common Market, and one of the sales corporations was located in one of those countries, it would pay practically no tax where it was located; and under the Senator's amendment, as under existing law, would not owe any tax here until and unless it saw fit to take out its capital and bring it here.

Mr. JAVITS. The Senator from Oklahoma did not add that phrase until now: "until and unless they saw fit to take it out and bring it home." Then they would have to pay a tax.

Mr. KERR. That is according to existing law.

Mr. JAVITS. That is what the Senator from New York has been talking about.

Mr. KERR. The Senator is trying to amend the existing law by his amendment.

Mr. JAVITS. As to those corporations which are in the condition that I have described.

One further point: Switzerland and other low-tax countries are not now in the Common Market. So the Common Market is now composed of highly industrialized countries which have rather important tax structures of their own.

But beyond that, I think the fundamental point on which I would differ very sharply—and the whole administration differs with it—is that investments by American corporations which manufacture in the European Common Market represent an export of our jobs. If the Senator from Oklahoma would argue that when the trade bill is before the Senate, the Senator would be dead set against the trade bill, because the whole thrust of the trade bill is designed to encourage precisely this kind of freedom of operation on the part of American corporations.

What my amendment tries to accomplish is to retain competitively this freedom of operation for them, which, I would tell the Senator, with just as much vigor as he has just used, will be destroyed—the competitive position of American corporations will be absolutely destroyed—by the disadvantage imposed upon them by the artificial operations of this bill in this very respect toward the European Common Market, as the bill treats the European Common Market, as six separate countries and gives tax status as it relates to six separate countries.

Is there anything in the bill which would impose the kind of tax that the Senator wishes to impose upon these corporations, on American corporations with subsidiaries and sales companies in one country in the European Common Market—France or Germany? Is it not true that this bill expressly excludes such corporation from the tax treatment under the bill?

Mr. KERR. In this bill, at page 189, if Senators wish to turn their attention to it, line 13, the language reads:

(4) CERTAIN INCOME RECEIVED FROM RELATED PERSONS.—For purposes of paragraph (1), foreign personal holding company incomes does not include—

(A) dividends and interest received from a related person which (i) is organized under the laws of the same foreign country under the laws of which the controlled foreign corporation is created or organized, and (ii) has a substantial part of its assets used in its trade or business located in such same foreign country.

That provision is in the bill, subject to certain limitations, to give this privilege to foreign personal holding companies if they are in the same country where the controlled foreign corporations are created or organized. Under the bill, all the European Community would be regarded as one country, so that if the holding company were organized in Italy, which I think has a 30-percent rate, or Switzerland, it could come into the Common Market, which has none. Then the corporation could have companies in every one of the Common Market countries and get the benefit of this provision, which exempts dividends and interest received from a related person, that is, which is organized under the laws of the same foreign country. For the purposes of the bill, the amendment would make the entire Economic Community, as it now is or may become, one country, thereby establishing this benefit to a holding company in Switzerland, if it were there, or any other countries, with reference to all the companies it operated in the entire Economic Community.

Mr. JAVITS. I gather that the manager of the bill concedes that I am right as to one concept, that I do not include in my amendment foreign personal holding companies. If the Senator will examine the amendment, he will see that it relates to foreign business and foreign business service companies, not to holding companies. That is why I do not believe the aspersions——

Mr. KERR. A foreign service company is what is called a foreign holding company.

Mr. JAVITS. But the Senator from Oklahoma was reading from a section of the bill which my amendment does not affect.

Mr. KERR. But the section of the amendment which the Senator from Oklahoma read would be applicable if the amendment of the Senator from New York became a part of the bill.

Mr. JAVITS. I am sorry; it would not, because my amendment affects subsections (d) and (e), and then it would include material the Senator read from page 189. I sought to exclude specifically holding companies subject to tax and holding company tax havens. That is precisely what is included.

I understood the argument which would be made on the other side. I do not feel, in all fairness, that it ought to be made with respect to what I was trying to accomplish—the same opportunities for American companies which are going to be operating in this field, in accordance with the enlightened concepts of trying to compete on terms of equality with the British, the French, the Germans, and all others who operate in those markets. The bill would very materially disadvantage such companies. That is the correction which the Senator from Minnesota [Mr. MCCARTHY] and I, at the very last stages of the debate on the bill, are still trying to make. If we cannot, we cannot. But we still have the right to try.

With all respect to the Senator from Oklahoma, I still do not believe we should be subjected to the charge that we are trying to maintain tax havens and tax avoiders when we have designed an amendment expressly to exclude the personal holding companies which are referred to on pages 188 and 189 of the bill.

If the amendment included Switzerland, the Senate would be at perfect liberty to repeal this provision. But now we are talking only about the six Common Market countries and about American corporations seeking to operate there in the interests of our own export trade in competition with the companies which are not subjected to that which the bill will subject American companies in terms of their income from those operations. That is the fundamental point and the fundamental reason for our position.

I do not feel, in all honesty and fairness, that our position justifies the general assertion that we are trying to sweep back into the bill tax havens and all the other things which are complained of.

Mr. MCCARTHY. I think it is significant—and the RECORD ought to show it—to note what the foreign rates of income tax are in most countries, and what they are in the European Economic Community.

The committee amendment provides that if foreign holding income taxes are in excess of 47 percent, no repatriation is called for. If they are 52 percent, or approximately that, we collect any taxes in excess.

But these are the foreign income taxes, including State and local taxes, chargeable against U.S. taxes:

Austria, 52 percent; Belgium, 28.5 percent; Denmark, 44 percent; Finland, 50 percent; France, 50 percent; Germany, 38 percent; I understand it is now up to 51 percent; Great Britain, 53.75 percent; Ireland, 40 percent; Italy, 37 percent; the Netherlands, 47 percent; Norway, 59 percent; Spain, 37 percent; Sweden, 48 percent; Switzerland, 33 percent.

The reason why American companies operating overseas establish Swiss subsidiaries is to escape paying high taxes, up to 47 percent or 50 percent, or 48 percent in some other country. They move their subsidiaries into a 33-percent country. Then when they repatriate them from that country, we have an opportunity to collect 52 percent, or at least to impose our tax as opposed to the 33-percent tax paid in Switzerland.

So the amendment, it seems to me, could do nothing but help.

Mr. JAVITS. I thank the Senator from Minnesota. I should like to conclude my remarks on this point, because, notwithstanding the importance of the tax sections, this point is more important than anything we have been discussing in the way of taxes. In connection with the trade bill, the fallacious argument will be made that foreign countries in the establishment of American manufacturing facilities somehow brings about the "exporting of jobs." I predict, that if that is the concept on which the Senate will vote on the trade bill and other policy bills, American economic power and influence will atrophy, and American exports will diminish very materially, and we shall be unable to maintain our position in the world. Such a concept reminds one of a general who, when confronted with an overwhelming force, goes about his defense by keeping all his troops in his castle. In such a situation, a sortie is essential. And a sortie is essential both in economics and in war.

It is most important that there be widespread realization of the importance of the true concept in this connection. But, I say, with all respect, that the President has loosely used the concept of "exporting jobs by means of making American investments abroad."

Mr. President, we shall not be able to maintain our freedom or sustain the American economy unless we learn that if we are to maintain the power which we must maintain if we are to survive and if freedom is to survive, we must move out into the world. That is essential if we are to do the economic job which needs to be done.

Arguments based on statements about "exporting jobs" deal with a subject which cannot be separated from the economic policy of the Nation, and are symptomatic of the general climate of thinking.

Even if this amendment does not succeed, I am very glad we have had this debate, because it is most important to put an end to the idea that if an American-owned factory is established abroad, it cuts down the American economy. On the contrary, that is the only way by which we shall survive and keep our competitive position in the world and expand our economy and make possible the employment of our people and maintain freedom in the world—by manifesting our capabilities everywhere, not merely in the United States.

So, Mr. President, based upon this concept of competition, I hope the Senate will see fit to adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New York [Mr. JAVITS], for himself and the Senator from Minnesota [Mr. MCCARTHY].

Mr. KERR. Mr. President, I am glad the Senator from New York mentioned the trade bill. If the trade bill has justification, it is as a means of providing the opportunity for American corporations in the United States to compete with corporations in other countries for the domestic market here and for the domestic markets in the other countries and in the world. There would be no purpose in passing a bill to promote trade if we could not expect, as a result, more exports from this country to other countries and more sales by our industries at home to our domestic customers.

What the Senator from New York is seeking to do is to strengthen the competitors in the European Economic Union against American-based and American-located industries. Otherwise, why offer the amendment? Otherwise, why offer an amendment of this sort?

The Senator has reminded me that the amendment applies only to "(d) Foreign Base Company Sales Income," on page 190, and "(e) Foreign Base Company Services Income," on page 192. But that was inked into the amendment after it was written, and I did not know the Senator had thus limited the amendment.

But I call the attention of Senators to "(d)" and "(e)": "(d)" refers to "Foreign Base Company Sales Income," and relates to a foreign-based company and its sales, through a subsidiary, of goods or property; and "(e)" relates to "Foreign Base Company Services Income."

So in the final analysis, whether we call it a foreign holding company or a foreign-based service company or a foreign-based sales company, the net result is the same, and the treatment under the bill is the same. The bill is now limited to a single company; but the amendment of the Senator from New York would make it available to the entire European Economic Union as it now is or as it may become, by reason of the fact that the Senator from New York says it shall be treated as one country.

There can be no purpose for his amendment if it is not to permit American finances and American funds to be used to build American-owned and American-operated industries in the European Economic Community, and provide them—under the provisions of the amendment of the Senator from New York—with a tax haven. If the amendment does not do that, it has no purpose. I submit that is what it does do; and when it does it, it brings about the result of the exporting of American dollars and the exporting of American jobs. Therefore, the amendment should be defeated.

Mr. JAVITS. Mr. President, I think the Senator has now conceded the main point, which is that as long as it is done in one country, it is proper under this bill; and my concept is that if it is done in the European Economic Market, it is done in one country, because the European Economic Community is an economic entity.

But my point is that this amendment is necessary in the interest of American companies which employ millions of persons and have thousands of stockholders and have companies operating in the European economic area. That is the point of the amendment; and it deals with one of the great concerns of American business generally in connection with this entire matter.

Mr. KERR. Mr. President, the provision of the bill with reference to companies in the same country is included because in one country such companies receive the same tax treatment. But if we provide that the European Economic Union is one country, for purposes of this bill, we do so for an American corporation, although it is not done in that country. These countries do not have one tax treatment for all companies. There is separate tax treatment for companies in each of these countries. It is one economic union, yes; but it is not one tax union and it is not a common tax union. But that would be the result of the amendment of the Senator from New York.

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

The PRESIDING OFFICER (Mr. MILLER in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the proceedings under the quorum call be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, on the amendment which I offered on behalf of the Senator from Minnesota [Mr. MCCARTHY] and myself, I ask for a division.

On a division, the amendment was rejected.

Mr. KERR. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HILL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FULBRIGHT. Mr. President, on behalf of the Senator from Minnesota [Mr. MCCARTHY] and myself, I offer amendments identified as "8-28-62—G."

The PRESIDING OFFICER. The amendments offered by the Senator from Arkansas for himself and the Senator from Minnesota, will be stated.

The LEGISLATIVE CLERK. It is proposed on page 208, line 10, to insert the following new paragraph:

(d) CORPORATIONS ENGAGED IN PRODUCING OR SELLING BOOKS OR OTHER MEDIA OF COMMUNICATIONS WHICH ARE EDUCATIONAL, SCIENTIFIC, CULTURAL, OR INFORMATIONAL IN NATURE.—For purposes of this subpart, the term "controlled foreign corporation" does not include any corporation with respect to which 80 percent or more of its gross income for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from the production or sale of books, including textbooks, educational and scientific books and journals, and encyclopedias, and other media of communications which, under regulations prescribed by the Secretary or his delegate, are deemed to be educational, scientific, cultural, or informational in nature. For purposes of determining income from the production or sale of such books and such other media of communications, dividends and interest from a corporation which is excluded from the definition of "controlled foreign corporation" solely by reason of this subsection shall be deemed to be income from the production or sale of such books and such other media of communications.

On page 208, line 11, strike out "(d)" and insert in lieu thereof "(e)".

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that my statement explaining the amendments be inserted in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR FULBRIGHT

Members of the Senate who have traveled widely in the past several years will know how in every country in the world—in developed as well as underdeveloped countries, in scores of languages, and by the tens of millions—inexpensive copies of Soviet books are for sale everywhere, often on newsstands. These books are subsidized by the Soviet Union and by local Communist parties. In 1961, according to the USIA, more than 150 million copies of subsidized low-priced Soviet books, translated into free world languages, were produced for distribution in non-Communist countries. About 90 percent of these were printed in German, English, French, or Spanish. They are part of what Professor Baarghorn, of Yale, calls the Soviet cultural offensive. They are front-line weapons in the battle for men's minds.

No doubt the Soviets would be glad to give these books away—were it not for the fact that men tend to put more value on things they pay for—even if it is only a token payment. We in the United States, far from subsidizing the sale of our books abroad, are in danger of hamstringing our American publishers who seek to sell their books and their educational materials abroad.

Our book publishers have found their markets abroad widening. They have been learning to sell in those markets. Last year they sold $90 million worth of American books to foreign purchasers. This represents an increase in recent years of 10 percent a year.

The American Book Publishers Council, and the American Textbook Publishers Institute, which represent concerns doing 90 percent of the book business in the United States, have expressed concern that the Treasury's proposals about taxation of foreign subsidiaries will hamper their expansion—and may tie the hands of our publishers as they explore new and better ways to project to foreign peoples the best products of America's brainpower.

These two associations have proposed that books and other educational, scientific, cultural, and informational mediums be exempted from the effect of proposed new statutes governing taxation of controlled foreign corporations. They point out that there are many precedents for giving books a special status. This special status is implicit in the Smith-Mundt Act, creating the U.S. information program, which is now supported by appropriations of more than $100 million a year. Because USIA libraries could not possibly secure adequate distribution abroad of U.S. books and periodicals, the Congress 10 years ago created an information medium guarantee program backed by appropriations of as much as $10 million a year, to help publishers and others with their currency-conversion problems; this program still functions in certain countries in which normal sales are not possible. Under the AID and Alliance for Progress programs, great emphasis is being placed on the development of education as an important requisite for economic progress. Still another example of the special role books and other cultural materials are recognized to play in modern foreign relations is the Florence agreement, a treaty approved by the Senate which exempts such educational materials from tariffs.

I have asked Edward Murrow, Director of the U.S. Information Agency, to comment on the proposed exemption of books and other media of information. Here is his statement:

"We believe that the objectives of the U.S. Information Agency overseas will be aided if the receipts from publication or sale of books or other media of communication of an educational, scientific or cultural nature by American companies overseas which are reinvested for expansion of such activities overseas are excepted from the new provisions proposed to be included in section 957 of the Internal Revenue Code through passage of the pending revenue bill. Wider distribution of such American books and other media of communication overseas is important to the advancement of international understanding, and we are aware that the principal American companies involved are expanding their distribution now and may be expected to continue to do so if taxation does not make the financing of such expanded distribution difficult and unprofitable."

I need not remind the Senate that no question of tax forgiveness is involved in such an exemption. Earnings would be taxable in the United States, as they are now, when they are remitted to the parent company. Indeed, if the hopes and expectations of the publishers are realized, the taxable revenue accruing to the Treasury presently may be substantially larger than this would be in the absence of the exemption. Nor is there a question here of perpetuating tax havens, in the sense of refuges for earnings of American companies abroad which cannot be reached by the Treasury; the earnings are reinvested until they come home, presumably enlarged, to be shared with the Treasury.

One American publisher—his company is one of the biggest publishing houses in the world—says this:

"We are just beginning to learn how to distribute our books and other educational materials abroad. I fear that, if section 12 of the new revenue bill is adopted in its present form, we may have to pull out of some of the so-called developed countries where we have begun to expand, and to abandon other expansion projects abroad.

"Our principal product is sets of books, but we also sell other books and educational programs as well. We are developing new products of great potential importance, for example the so-called teaching machine, which is actually a superior form of textbook. My people tell me it may be possible, through such new techniques, to teach English to tens of millions abroad for as little as $3 a student.

"We are learning how to sell these books by American methods abroad (including in countries where English is not the dominant language) and this means we sell sets of books on the installment plan with the purchasers having 2 years or more to pay. This immediately complicates our problem of financing. We deliver the sets of books when they are ordered, and we pay commissions and maintain our offices abroad, but we don't begin to show cash earnings on the sale of a set until after most of the monthly payments have been made—not until the last few payments. This means we are faced with an expensive problem of financing. The only practicable way for us to handle this financing is to use the earnings of an established foreign subsidiary, before U.S. taxes, to finance the development of a newer subsidiary."

This publisher's company has been expanding explosively both at home and abroad. Expansion has been financed by borrowings, against accounts receivable, now totaling some $60 million, of which about one-third is due to foreign expansion. Partly because foreign financial institutions are not accustomed to loaning money secured by installment accounts receivable, interest rates paid by this company and its foreign subsidiaries are in some cases as high as 12 percent—and this, of course, puts a brake on expansion.

For a simple and logical reason this company places major reliance on its wholly owned Canadian subsidiary to help finance new foreign expansion. The American company and its various foreign subsidiaries have been borrowing for expansion up to the prudent limit of their capabilities and logical reason for placing major reliance on the Canadian company is that under Canadian law, the earnings of foreign subsidiaries of Canadian corporations are not subject to Canadian tax. Thus the Canadian subsidiary of this American company can borrow money for the company's foreign expansion, and can service this debt with the earnings of the new companies in other foreign countries which are its subsidiaries. The larger this income, the greater the expansion.

Again for logical reasons the Canadian subsidiary of this American company seeks to take advantage of whatever legitimate and legal opportunities exist in foreign tax laws which will maximize its foreign earnings and thus increase its borrowing capacity.

I do not pretend to understand fully the economics of the foreign distribution of American publishing companies. I do not know how many other U.S. publishers have problems similar to those of the company I have cited; and we must, of course, assume that if its formula is successful other companies will follow suit.

I do not know if the Treasury would take such a myopic view of what constitutes a tax haven as to bracket this company's practices within its new rules and regulations—even though what is involved is obviously a network of conduits for American ideas and American influence—and not a sequestered haven or shelter.

I do know that the company I have cited is definite in its statement that it will have to curtail some of its foreign expansion projects, and abandon others, if the present language of the bill is approved without further amendment or exemption.

For myself, I must say that the ability of the United States to do justice to itself in the intellectual cold war that is shaking the world is so central to our security that I would favor outright subsidies for our books and informational media if that became necessary. Fortunately, that is not necessary here. Our American publishers are asking here only for the right to continue expanding their sales abroad under the conditions that have prevailed up to now. The cost of allowing them to do so—if indeed there is any cost—is tiny measured against the stakes.

The Treasury is properly concerned with achieving good and sound tax practice. I suggest our responsibility here in this Chamber is much broader. We are responsible for the national welfare and the national security. Our security overrides all other considerations. That is why I have risen to offer the amendment proposed by the junior Senator from Minnesota.

Mr. FULBRIGHT. Mr. President, the amendment seeks to overcome a conflict in our overall national policy. On the one hand, there is a tax policy which, under the bill, would discourage the publication in foreign countries of books, and especially of educational material designed to teach English, and, on the other hand, we are subsidizing, or paying to do this very thing, through the USIA and other agencies of government.

The amendment would apply only to book-publishing companies—of which there are two principal ones—which are engaged in private enterprise in an effort to make available facilities for the teaching of English and books in English.

I believe that is entirely in accord with the national interest and policy of the Federal Government in promoting throughout the world the greater use of English, the understanding of the language, the reading of books, and so on, for the purpose of creating better relations between this country and other countries.

I believe that, in a sense, there is an inadvertent conflict of the law that would apply to book-publishing companies. I hope the Senator from Oklahoma will agree to accept the amendment.

Mr. KERR. Mr. President, I cannot agree to accept the amendment, but I understand that the USIA and the State Department favor the proposal.

I have been seeking an expression from the Treasury, and early this afternoon I received from the Treasury this assurance: First, that we could provide in the conference language which would accomplish the purpose the Senator has in mind. The Treasury has further assured me that it will attempt to do just that.

In the opinion of the Senator from Oklahoma, in conference, we can attain, within the purview of the language of

the two versions of the bill, the objective the Senator from Arkansas has in mind.

Mr. FULBRIGHT. I thank the Senator very much. I realize that it is difficult to adjust these technical matters on the floor of the Senate.

I assure him that within the statement which I have placed in the RECORD, I quoted Mr. Edward Murrow, Director of the U.S. Information Agency, in support of the amendment.

The Senator from Oklahoma is quite correct in his statement about the attitude of the Department of State and the USIA.

With that assurance, I will not press the amendment, because I realize that the hour is late, and I do not wish to belabor it.

Mr. KERR. The objective will not be accomplished in the language of the amendment. If it were, I would recommend accepting the amendment. Technically, the Treasury thinks this purpose can be achieved in different language, and it will cooperate in doing so.

Mr. FULBRIGHT. I thank the Senator. I understand that in the particular activity of publishing books which we foster in other areas of our Government policy, no inhibition would arise under the present language of the bill; but the technical way to arrive at a conclusion is that the Senator will try to reach an agreement, and the Treasury believes it can be done.

Mr. KERR. The Treasury representatives have said they could, and that they will cooperate in doing so.

Mr. FULBRIGHT. I withdraw the amendment.

Mr. DOUGLAS and Mr. LAUSCHE rose.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KERR. Mr. President, I wonder if the Senator will yield 5 minutes to the Senator from Colorado [Mr. ALLOTT] to offer an amendment?

Mr. LAUSCHE. Mr. President, I do not know whether I am within the rules, but my name has been on the list at the desk, and it preceded that of the Senator from Arkansas.

Mr. KERR. Mr. President, I withdraw the request.

Mr. LAUSCHE. I do not know how I have been relegated to the position to follow——

Mr. DOUGLAS. Mr. President, I shall be glad to yield the floor to allow other Senators to present their views.

The PRESIDING OFFICER. The Chair is following the designations on the list at the desk.

Mr. LAUSCHE. The designation shows my name preceding that of the Senator from Arkansas. Some numerals were added. I do not know how that was done.

I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I ask unanimous consent that I may have 4 minutes within which to propose certain amendments, without the Senator from Ohio losing the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLOTT. Mr. President, I send to the desk amendments, and ask unanimous consent that the reading of the amendments be dispensed with and that the amendments be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments offered by Mr. ALLOTT are as follows:

On page 391, between lines 21 and 22, insert the following new section:

"SEC. 127. MEDICAL CARE COVERED BY INSURANCE TO BE DISREGARDED IN DETERMINING WHETHER AN INDIVIDUAL IS A DEPENDENT OF TAXPAYER.

"(a) IN GENERAL.—Section 152 (relating to definition of dependent) is amended by adding at the end thereof the following new subsection:

"'(e) MEDICAL CARE COVERED BY INSURANCE TO BE DISREGARDED.—For the purposes of subsection (a), medical care for an individual which is provided, or the expenses of which are paid, under an insurance plan, policy, or program shall not be taken into account in determining whether such individual received more than half of his support from the taxpayer.'

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1959."

On page 391, line 22, strike out "27" and insert in lieu thereof "28".

Mr. ALLOTT. Mr. President, this proposal can be presented very briefly. I think it can best be shown by reading a paragraph from a letter I received from the Internal Revenue Service:

Information furnished this office is that the total cost of Mrs. Tyrrell's support for the year was $2,479.23. Of this amount, Mr. and Mrs. Swanson furnished $780.76; Mrs. Ted Hunt, Mrs. Tyrrell's daughter, furnished $266.67; Mrs. Tyrrell furnished $50 from her own funds; and the balance of $1,381.80 was furnished by the Scottish Union & National Island Marine Insurance Co.

The sole question to be resolved is this: Mr. Herbert W. Swanson, who claims the woman as a dependent, supported her for 11 months out of the year. She fell and broke her hip, and because of the money the Scottish Union & National Island Marine Insurance Co. paid in the way of hospitalization and health insurance, the amount it paid amounted to more than that which had been contributed to her support for the year.

The Internal Revenue Service has said that their interpretation of the regulations is that such funds, taxable or otherwise, if used, must be considered in determining whether or not Mr. and Mrs. Swanson furnished more than half the support of the dependent.

This question has been discussed with the senior Senator from Oklahoma, who is in charge of the consideration of the bill, and it has been discussed with those connected with the Internal Revenue Service. I am informed it is believed the problem should be handled administratively. If it is not handled administratively certainly it should be handled by approval of the amendment, because certainly it was never the congressional intent that taxpayers who support dependents for more than half the year, providing normal support, should be deprived of the allowance for a dependent because an accident caused insurance payments to be made in behalf of the dependent.

I should like to ask the senior Senator from Oklahoma for his comments in this regard.

Mr. KERR. Does the Senator have available a copy of his amendment?

Mr. ALLOTT. The amendment is at the desk.

Mr. President, it is my intention later to withdraw the amendment, if we can clear this up administratively, which I think we can.

Mr. KERR. Mr. President, I agree with the Senator from Colorado. In my judgment, this is a matter which can be handled administratively. I have submitted it to a representative of the Treasury Department. While he did not authorize me to say it would be so handled, he authorized me to say that was his opinion and that he would endeavor to have it done that way.

I hope the Senator will give me an opportunity to attempt to reach an adjustment. If it cannot be done, when another tax bill is before us, I will favor his amendment.

Mr. ALLOTT. I appreciate that expression, Mr. President. Certainly I do not believe the law was ever intended to work in this way. The regulation has been interpreted in an arbitrary manner.

Since I have the assurance from the Senator that he will do all he can, I will do what I can, and I hope the situation can be taken care of. Many other people will find themselves in the same situation.

I am sure the law was never intended to operate in this way.

Mr. KERR. Mr. President, a person in a relationship to a dependent such as the person the Senator has described, under those circumstances certainly is entitled to an exemption, under my interpretation of the law, and I hope to be able to help the Senator to obtain relief administratively.

Mr. ALLOTT. I appreciate that very much. I thank the Senator from Oklahoma.

Mr. President, I ask unanimous consent that a copy of a telegram from Mr. Swanson and a copy of the letter of the Internal Revenue Service may be included in the RECORD at this point.

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

DENVER, COLO.,
July 24, 1962.

Senator GORDON ALLOTT,
Washington, D.C.:

Internal Revenue here claims that even though taxpayer keeps aged parent 11 months, contributing all support; and parent falls in his house breaking hip in December, if medical expenses exceeding taxpayer's support are paid within same year under liability insurance carried by taxpayer, exemption disallowed on grounds insurance company contributed over 50 percent. Obviously law means normal support and certainly nothing so ridiculous. If it takes specific amendment to remedy, can't you introduce such bill? Please wire reply.

HERBERT W. SWANSON.

U.S. TREASURY DEPARTMENT,
INTERNAL REVENUE SERVICE,
Denver, Colo., August 2, 1962.

The Honorable GORDON ALLOTT,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: Thank you for your letter of July 24, 1962, relative to the exam-

ination presently being made of the 1960 income tax return of Herbert W. and Eldora N. Swanson, 5150 Raleigh Street, Denver, Colo.

The sole issue involved is whether Mr. and Mrs. Swanson are entitled to the dependency exemption for Mrs. Norah Tyrrell, mother of Mrs. Swanson. Section 152(a) of the Internal Revenue Code, in defining a dependent, states in part that, "the term 'dependent' means any of the following individuals over half of whose support for the year was received from the taxpayer: * * * (4) The father or mother of the taxpayer * * *." The regulations under paragraph 1.152–1(a) (2)(i) provide: "For purposes of determining whether or not an individual received, for a given calender year, over half of his support from the taxpayer, there shall be taken into account the amount of support received from the taxpayer as compared to the entire amount of support which the individual received from all sources, including support which the individual himself supplied. The term 'support' includes food, shelter, clothing, medical and dental care, education, and the like."

Information furnished this office is that the total cost of Mrs. Tyrrell's support for the year was $2,479.23. Of this amount, Mr. and Mrs. Swanson furnished $780.76; Mrs. Ted Hunt, Mrs. Tyrrell's daughter, furnished $266.67; Mrs. Tyrrell furnished $50 from her own funds; and the balance of $1,381.80 was furnished by the Scottish Union & National Island Marine Insurance Co. The amount of $1,381.80 paid by the insurance company was for Mrs. Tyrrell's medical expenses incurred when she fell and broke her hip in Mr. and Mrs. Swanson's home.

Mr. and Mrs. Swanson contend that funds from the insurance company which were used to pay Mrs. Tyrrell's medical expenses are not part of her support. Our interpretation of the regulations is that such funds, taxable or otherwise, if used, must be considered in determining whether or not Mr. and Mrs. Swanson furnished over half of the dependent's support.

Mr. and Mrs. Swanson have been advised of their rights of appeal, i.e., (1) informal conference, (2) review by the Appellate Division, and (3) hearing before the Tax Court.

If we can be of any further assistance in this matter, please let us know.

Best regards.

Sincerely yours,

L. E. HILL,
Acting District Director.

Mr. ALLOTT. I thank my distinguished friend from Ohio very much for yielding to me.

The PRESIDING OFFICER. Does the Senator from Colorado withdraw his amendment?

Mr. ALLOTT. I withdraw my amendment.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. HICKENLOOPER. Mr. President, will the Senator from Ohio yield to me for the purpose of my offering an amendment, with the understanding that the Senator from Ohio will not lose his right to the floor?

Mr. LAUSCHE. I yield to the Senator from Iowa.

The PRESIDING OFFICER. Without objection, the Senator from Ohio may yield to the Senator from Iowa with that understanding.

Mr. HICKENLOOPER. Mr. President, on behalf of myself and my colleague [Mr. MILLER] I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 104, line 14, it is proposed to strike out "200" and to insert "500".

Mr. HICKENLOOPER. Mr. President, first I wish to express my appreciation to the Senator from Oklahoma for his consideration in the last couple of days, and that of his staff, in attempting to meet the problem which I face, which is quite important.

The amendment refers to page 104.

Mr. KERR. The Senator is correct.

Mr. HICKENLOOPER. It would give certain consideration to casualty companies engaged in operations relating to hail and windstorm damage. A radius of 200 miles is provided in which the business may be concentrated, in connection with certain reserves for losses. I shall not go into the details at this time.

I have discussed this question with the Senator from Oklahoma and with his staff. They understand the problem thoroughly.

The language, as it is written, seems to be an adequate or satisfactory provision for all the companies in this particular catastrophe category of which I know except one, which happens to be in my home State. It is a very substantial company operating there. A number of the catastrophe insurance companies have offices in my State, but mostly the companies are of limited means.

The particular company involved in this regard has an area of approximately 1,000 miles long and 400 miles wide. It begins with the northwest corner of the State of Nebraska, extends to the southwest corner of the State of Kansas, then eastward across the northern half of Missouri to the center of Ohio, north through most of Michigan for about 200 miles, and then southwest to the northern corner of Nebraska. That is a territory of approximately 1,000 miles long and 200 miles wide in which the company has the catastrophe insurance business, relating to hail and windstorm and those items.

The conviction of the company is that the 200-mile radius will not give them the benefit which other companies will enjoy—that, in fact, it would pose a definite hazard to their reserves, as their records show.

In connection with my remarks, Mr. President, I ask unanimous consent to have printed in the RECORD at this point a copy of a letter to me from Mr. Max D. Rutledge, president of Farmers' Mutual Hail Insurance Co. of Des Moines, Iowa, a copy of which I have already delivered to the Senator from Oklahoma and to his staff.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FARMERS MUTUAL HAIL INSURANCE CO.,
Des Moines, Iowa, August 30, 1962.

HON. BOURKE B. HICKENLOOPER,
Senator from Iowa,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HICKENLOOPER: In response to the request from your office, I shall attempt to furnish you the answers to the questions arising from your conference with Senator KERR and his office.

The term "pure loss ratio" as used by Mr. Benson in his letter of August 10, is the percentage of losses paid (excluding all expense) in relation to total premiums charged. Underwriting experience, when reduced to percentage, indicates the actual profit or loss when all losses and expenses are added together and compared to the premium.

The underwriting experience, especially in our hail department, was exceptionally favorable in the 4 years following the catastrophe of 1956. This favorable experience provided an increase in policyholders' reserve far greater than any similar period in the history of the company.

Year	Earned premium	Underwriting gain or loss	Change in surplus	Surplus on Dec. 31
1956	$9,054,079.35	−$3,548,674.14	−$3,269,679.86	$2,751,481
1957	10,958,240.63	735,712.25	651,461.21	3,402,943
1958	11,198,749.35	2,164,056.49	1,984,036.72	5,386,979
1959	10,033,866.54	2,173,054.53	2,113,091.43	7,500,070
1960	10,829,527.47	1,535,357.59	1,335,346.81	8,835,417
1961	11,724,685.78	269,886.43	392,032.44	9,227,449

In the year of 1961, there was an underwriting loss in the catastrophe lines; however, this loss was offset by underwriting gains in reinsurance assumed and by investment income.

Already 1962 has developed an underwriting loss on our total hail premium and an underwriting loss by the individual States of Kansas, Iowa, Nebraska, Minnesota, and Wisconsin.

I understand that there were severe storms yesterday and last night running through Nebraska, Minnesota, Iowa, and Wisconsin which will add to this loss.

Your third question, asking what percent of our catastrophe business would be included in a 300-mile radius and a 400-mile radius, is very difficult to answer because of the shape of our territory in relation to a circle of the same radius. Approximately 40 percent of our catastrophe business (28 percent of the total) is contained within the 200-mile radius. The remaining 50 percent is almost equally divided between the third, fourth, and fifth hundred miles, depending upon crop conditions in Kansas which fluctuate greatly from year to year. I believe if the present 200-mile proposal were increased to either 300 miles or 400 miles, administration of the provision would become very complicated. As we have pointed out before, 90 percent of our catastrophe business would fall within a 500-mile radius. The remaining 10 percent is isolated along the eastern seaboard and could be easily segregated.

I am sure the fact can be established that Farmers Mutual Hail Insurance Co. is the only mutual company writing catastrophe insurance that would be limited under the proposed 200-mile radius. It would receive equal benefit with other mutuals under the 500-mile radius. Our concentration of catastrophe liability extends from southwestern Kansas northeasterly to north-central Ohio, a distance of approximately 1,000 miles, yet the width of this concentration is less than 400 miles at any point and would easily fall within the 200-mile radius. This situation results from the fact that this area is the principal grain-producing area which is affected by severe hailstorm damage. Severe hailstorms occur over practically all of this

area during a storm period because the storm is caused by a cold front traveling southeasterly from the northern Rocky Mountain region meeting moist, warm air from the Gulf of Mexico. It seems that the main violence of the storm is expended by the time it has gone through this 400-mile strip indicated on the enclosed map.

Thank you again for your interest in our problem. Please express our appreciation to Senator KERR and his staff for taking time to consider this very important problem which directly affects farmers of the Midwest who are trying to provide for themselves security from their greatest source of financial loss: namely, hailstorms.

Yours very truly.

MAX D. RUTLEDGE,
President.

Mr. HICKENLOOPER. The company believes—and, so far as I know, it is true—that it is the only company in the United States which would be so adversely affected by the language as it now stands. The company feels it could live, with reasonable assurance, if the radius were extended to 500 miles instead of 200 miles. Therefore, we have offered the amendment.

I have discussed the problem with the Senator from Oklahoma and with his staff. We have arrived at an understanding which I believe the staff has reached, which may afford some basis for relief. It would not cause undue difficulty.

I should be pleased to have the Senator's comments.

Mr. KERR. Mr. President, with reference to the amendment offered by the Senators from Iowa, I advise the Senate that this has to do with losses in concentrated disaster areas. The committee felt, in making certain provisions available to companies operating either in one State or within 200 miles of any fixed point selected by the taxpayer, that adequate provision was being made.

The Senator advises that the mutual company he has in mind operates in a much larger area.

The Senator from Oklahoma believes that if the amendment were adopted as presented, it very likely could open up additional advantages beyond the company which the Senator has in mind. The Senator from Oklahoma would suggest a compromise in language as follows:

On page 103, line 25, strike the period and insert the following: ", or one-half of such amount in the case of a taxpayer who elects to compute the concentrated windstorm, and so forth, premium percentage under paragraph (2) (A) (iii)."

Then, on page 104, at the point referred to by the Senator, to include a third alternative, which would be:

(iii) if the taxpayer so elects, within 400 miles of any fixed point selected by the taxpayer,

In that event, if the taxpayer took advantage of the third option, he would get one-half the benefit that those who operated within a point 200 miles of any fixed point would get, but in return for taking half as much benefit pro rata, the taxpayer could elect an area within 400 miles of a fixed point which would give him far greater than twice what one would have at 200.

Mr. HICKENLOOPER. I think I understand what the Senator is suggesting. We have previously discussed it. As I said, I am grateful to the Senator from Oklahoma, his staff, and the staff of the Treasury Department, who have conferred with us on the question.

Mr. KERR. The Senator is aware of the fact that the Treasury would not put itself in a position favoring the amendment.

Mr. HICKENLOOPER. I understand that.

Mr. KERR. But under a good deal of persuasion by the able Senator from Iowa, who seems to have a very great ability in that regard, the Treasury Department agreed that if it were amended in the manner suggested, they would not vigorously oppose the measure.

Mr. HICKENLOOPER. When one sits in the presence of the distinguished Senator from Oklahoma for any appreciable length of time, that persuasive ability is bound to rub off to some extent—at least to the extent of a thin veneer—on those who hear him. I am sure that my amendment is a worthy one.

Mr. KERR. I thank the Senator, but I remind him that he was in the Senate when I arrived here, and I have sat at his feet and learned.

Mr. HICKENLOOPER. I did not want to create the idea that the Treasury was pressing the proposal. I wanted to thank the officials of the Treasury for their time and effort in attempting to work out something which may not meet with their approval.

Mr. KERR. Mr. President, I send to the desk an amendment, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 103, line 25, strike the period and insert the following: ", or one-half of such amount in the case of a taxpayer who elects to compute the concentrated windstorm, etc., premium percentage under paragraph (2) (A) (iii)."

On page 104, strike lines 13 and 14 and insert in their place the following:

arising—

(i) in any one State;

(ii) if the taxpayer so elects, within 200 miles of any fixed point selected by the taxpayer; or

(iii) if the taxpayer so elects, within 400 miles of any fixed point selected by the taxpayer.

The PRESIDING OFFICER. Does the Senator from Iowa accept the amendment, as modified?

Mr. HICKENLOOPER. Mr. President, I accept the modification proposed by the Senator from Oklahoma.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa, as modified.

The amendment was agreed to.

Mr. KEATING. Mr. President, will the Senator from Ohio yield to me for a colloquy with the distinguished Senator from Oklahoma?

Mr. LAUSCHE. I yield.

Mr. KEATING. Mr. President, the Savings & Loan Bank of the State of New York operates under article 10B of the banking laws of the State of New York.

Being the only institution of its kind, owned and originally operated entirely for the benefit of member associations, it was taken as the prototype for the establishment of the Federal Home Loan Bank system. At the present time, it continues to function in a manner very similar to that of the Federal Home Loan Bank for the benefit of State chartered savings and loan associations in the State of New York. Basically, it extends credit to its members through loans financed by the surplus cash it receives from its members in the form of time and demand deposits or by the issuance of debenture notes which it offers on the open market.

My colleague [Mr. JAVITS] and I have been in close touch with Mr. Otto J. Rabstejnek, president of the Savings & Loan Bank of the State of New York.

It is our understanding that the definition of a savings and loan association contained in section 8 of H.R. 10650 would in no way curtail or interfere with the essential activities of financial institutions such as the Savings & Loan Bank of New York State. The debentures floated by this bank would clearly qualify as proper holdings under the 10-percent category contained in the definition of the savings and loan association in section 8. While I believe it would have been preferable to have specifically included the New York State Savings & Loan Bank in the Sparkman amendment, I am advised that the bill as presently written would in no way be injurious to the bank.

All who are familiar with the workings of the bank are aware of the vital contribution which it has made to the economy of New York State over the years of its existence. Would the Senator from Oklahoma agree that the definition in the pending bill would not in any way restrict the activities of this institution as far as the issuance and sale of its debentures is concerned?

Mr. KERR. Mr. President, responding to the question of the distinguished Senator from New York, I believe it is quite clear that the definition of domestic savings and loan associations permits it to hold debentures of a type issued by the Savings & Loan Bank of the State of New York to the extent of the specified 10-percent limit.

Mr. KEATING. I thank the Senator.

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

Mr. LAUSCHE. I yield.

Mr. JAVITS. That is, according to the definition as amended by the amendment in which I joined with the Senator from Alabama [Mr. SPARKMAN].

Mr. KERR. That is my understanding.

Mr. JAVITS. I thank the Senator.

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

Mr. LAUSCHE. I yield.

Mr. DIRKSEN. The distinguished Senator from Kentucky [Mr. MORTON] is unavoidably absent. If he were present, he would offer his amendment, which has been designated "8–29–62—H." I am authorized to submit for him an explanation and an analysis of the amendment. I do so, and ask that the explanation be incorporated as a part of my remarks.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MORTON

The proposed amendment gives full recognition to the need to encourage the growth of savings and loan institutions in this country. Under the Finance Committee bill there are a number of permissible methods under which such institutions may compute their allowable bad debt deductions—the deductions which measure the extent to which such institutions can make provision for uncollectible loans. One of such permissible methods would allow savings and loan institutions a bad debt deduction generally equal to 3 percent of their growth in outstanding loans. The proposed amendment would increase the deduction to 5 percent.

This increase in the deductible reserve for bad debts is important and necessary for the following reasons:

1. It would encourage the growth of savings and loan institutions by placing the bad debt deduction on a substantial relationship to savings and loan institution growth.

2. It would be particularly beneficial to small- and medium-sized institutions which must continue to grow in order to survive in a competitive business.

3. It would provide a more realistic measure of necessary loss reserves, thus permitting savings and loan institutions to maintain sound financial footing.

4. It would extend to small, although not new, institutions the treatment which the Finance Committee recognized should be extended to small new institutions.

5. It would encourage the construction of new housing by increasing the ability of savings and loan institutions to provide reasonable financing.

In short, the proposed amendment would aid small business, i.e., small savings and loan institutions, by encouraging their growth and aiding them in maintaining a sound financial basis. The nationwide community of savers and homeowners is thereby served.

LEGISLATIVE PROGRAM AND ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

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

Mr. LAUSCHE. I yield.

Mr. DIRKSEN. I should like to ask the majority leader what he contemplates at the present time. I ask whether he knows how many more amendments will be offered, what general speeches may be made, and if we can consummate a third reading of the bill this evening?

Mr. MANSFIELD. Mr. President, to the best of my knowledge, the Senator from Tennessee [Mr. GORE] has two, three, or four amendments which he thinks can be disposed of very shortly. The Senator from Illinois [Mr. DOUGLAS] has an amendment relating to an oil and gas depletion allowance on a graduated basis upon which he would like an hour altogether——

Mr. DOUGLAS. I do not wish to confine myself to any definite time limit. I do not intend to take an excessive amount of time. But I do not wish to be placed within an iron lung, so to speak.

Mr. MANSFIELD. I believe the Senator from Minnesota [Mr. MCCARTHY] has an amendment which he wishes to offer.

It is the hope of the leadership that the third reading of the bill may be reached tonight. With the understanding that a third reading may be reached tonight, I should like to propound a unanimous-consent request that there be no votes after the third reading of the bill tonight, and that the Senate meet at 9 o'clock tomorrow morning.

Mr. President, I ask unanimous consent that when the Senate adjourns tonight, it adjourn to meet at 9 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that 4 hours of general debate be allotted on the bill before the final vote is taken.

The PRESIDING OFFICER. Is there objection?

Mr. LAUSCHE. Mr. President, reserving the right to object, I have been yielding——

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

Mr. LAUSCHE. I yield.

Mr. MANSFIELD. Since the Senator from Ohio has been so generous and tolerant, I ask unanimous consent that at the conclusion of the morning hour tomorrow, if there is one, the Senator from Ohio be given first recognition.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask the Chair to put my original request to the Senate.

The PRESIDING OFFICER. Is there objection to the previous request of the Senator from Montana? The Chair hears none, and it is so ordered.

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

Ordered, That, effective on Thursday, September 6, 1962, at not later than 9:15 a.m., during the further consideration of the bill (H.R. 10650) to amend the Internal Revenue Code of 1954 to provide a credit for investment in certain depreciable property, to eliminate certain defects and inequities, and for other purposes, all debate shall be limited not to exceed 4 hours, to be equally divided and controlled by the majority and minority leaders, or someone designated by them, to be followed by a vote on final passage of the said bill.

Mr. LAUSCHE. Mr. President, I yield the floor.

Mr. DOUGLAS obtained the floor.

Mr. DIRKSEN. Mr. President, will my colleague yield to me for a moment?

Mr. DOUGLAS. I also have been yielding for some time, but I shall be glad to yield to my colleague.

Mr. DIRKSEN. Mr. President, to clarify the unanimous-consent request, do I correctly understand that consideration of the remaining amendments will be concluded this evening, so far as the Senator knows, and that the third reading of the bill will occur tonight?

Mr. MANSFIELD. That is correct. The third reading could not be had unless all amendments were disposed of.

Mr. DIRKSEN. Exactly.

Mr. MANSFIELD. But once the third reading is reached, Senators may speak on any subject they wish. I understand that several Senators have speeches covering various situations in the world.

Mr. President, I ask unanimous consent that tomorrow morning there be a morning hour of 15 minutes, from 9 a.m. to 9:15 a.m., and that the 4 hours to be allotted on the bill shall start at 9:15 a.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. In other words, there will be a 15-minute morning hour. Then the 4 hours will begin to run on the debate on the bill before the vote is taken.

Mr. DIRKSEN. I have a further inquiry. If the Senate finished with the amendments tonight, and the third reading is had tonight, the vote tomorrow probably will come at approximately 1 o'clock.

Mr. MANSFIELD. Between 1:15 and 1:30.

Mr. DIRKSEN. Will my colleague ask for a yea-and-nay vote on his amendment?

Mr. DOUGLAS. Yes.

Mr. MANSFIELD. That is the only yea-and-nay vote that I know of. There may be others, but as of now, that is all I know of.

Mr. DOUGLAS. Mr. President, I call up my amendment identified as "8–30–62—J."

The PRESIDING OFFICER. The amendment will be stated by title.

The legislative clerk proceeded to state the amendment.

Mr. DOUGLAS. I ask unanimous consent that the amendment be not read, but printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 391, after line 21, insert the following new section:

"SEC. 27. PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

"(a) GRADUATED RATES.—Section 613 (relating to percentage depletion) is amended—

"(1) by striking out in subsection (a), 'specified in subsection (b)' and inserting in lieu thereof 'specified in subsections (b) and (d)';

"(2) by striking out paragraph (1) of subsection (b) and inserting in lieu thereof the following:

"'(1) OIL AND GAS WELLS.—The percentage applicable under subsection (d)(1).'; and

"(3) by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"'(d) OIL AND GAS WELLS.—

"'(1) PERCENTAGE DEPLETION RATES.—In the case of oil and gas wells, the percentage referred to in subsection (a) is as follows:

"'(A) 27½ percent—to the extent that, for the taxable year, the taxpayer's gross income from the oil and gas well, when added to (i) the taxpayer's gross income from all other oil and gas wells, and (ii) the gross income from oil and gas wells of any taxpayer which controls the taxpayer and of all taxpayers controlled by or under common control with the taxpayer, does not exceed $1,000,000;

"'(B) 21 percent—to the extent that, for the taxable year, the taxpayer's gross income from the oil and gas well, when added to (i) the taxpayer's gross income from all other oil and gas wells, and (ii) the gross income from oil and gas wells of any taxpayer which controls the taxpayer and of all taxpayers controlled by or under common control with the taxpayer, exceeds $1,000,000 but does not exceed $5,000,000; and

"'(C) 15 percent—to the extent that, for the taxable year, the taxpayer's gross income from the oil and gas well, when added to (i) the taxpayer's gross income from all other oil and gas wells, and (ii) the gross income from oil and gas wells of any taxpayer which controls the taxpayer and of all taxpayers controlled by or under common control with the taxpayer, exceeds $5,000,000.

"'(2) CONTROL DEFINED.—For purposes of paragraph (1), the term "control" means—

"'(A) with respect to any corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or the power (from whatever source derived and by whatever means exercised) to elect a majority of the board of directors, and

"'(B) with respect to any taxpayer, the power (from whatever source derived and by whatever means exercised) to select the management or determine the business policies of the taxpayer.

"'(3) CONSTRUCTIVE OWNERSHIP OF STOCK.—The provisions of section 318(a) (relating to constructive ownership of stock) shall apply in determining the ownership of stock for purposes of paragraph (2).

"'(4) APPLICATION UNDER REGULATIONS.—This subsection shall be applied under regulations prescribed by the Secretary or his delegate.'

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to taxable years beginning after the date of the enactment of this Act."

On page 391, line 22, strike out "27" and insert "28".

Mr. DOUGLAS. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. KEATING. Mr. President, will the Senator from Illinois yield for a parliamentary inquiry?

Mr. DOUGLAS. I yield for a parliamentary inquiry.

Mr. KEATING. Is the amendment of the Senator from Illinois divisible?

Mr. DOUGLAS. No; it is not divisible.

Mr. KEATING. Perhaps I do not understand the amendment. My understanding—and I may be mistaken—is that it has to do with the oil and gas depletion allowance, and also makes provision for something else. Does it relate merely to the depletion allowance?

Mr. DOUGLAS. Yes.

Mr. KEATING. There was some talk about another amendment.

Mr. DOUGLAS. It differs from the amendment of the Senator from Delaware [Mr. WILLIAMS], which proposed to reduce the rates on the upper brackets of the income tax schedule as well as reducing the depletion allowance. My amendment is confined solely to the percentage depletion allowance on oil and gas.

Mr. KEATING. It does not apply to any other subject?

Mr. DOUGLAS. That is correct.

The PRESIDING OFFICER (Mr. MILLER in the chair). The Chair rules that the amendment is divisible. There are parts of it that are divisible.

Mr. MANSFIELD. I believe what the Senator from New York has in mind is the possibility that the amendment of the Senator from Illinois was comparable to the amendment of the Senator from Delaware. The Senator from Illinois says that his amendment is not in the same category.

The PRESIDING OFFICER. The Chair holds that it is not a parliamentary inquiry as to whether it is the same amendment as the original amendment of the Senator from Delaware.

Mr. DOUGLAS. I suppose technically my amendment is divisible, because parts of an amendment can almost always be divided. However, I believe that if Senators will read the amendment they will see that it is an integral whole, one amendment. It is no more divisible than the child brought before King Solomon was divisible.

SLIDING SCALE REDUCTION

My amendment would reduce the depletion allowance on oil and gas from the present 27½ percent down to 15 percent in cases where the taxpayer's gross income from oil and gas in any year exceeds $5 million. The allowance would be reduced to 21 percent where the taxpayer's income from oil and gas exceeded $1 million, but did not exceed $5 million. It would leave the existing 27½ percent allowance for those whose incomes from oil and gas did not exceed $1 million gross in a year. It differs, therefore, from the amendment offered earlier today by the Senator from Delaware, which would gradually have reduced the allowance to 20 percent, regardless of the amount of the gross income of the recipient. It leaves out, of course, any provision for a reduction in income taxes, which was included in the amendment of the Senator from Delaware.

To repeat, my amendment would leave the existing 27½ percent allowance intact for those whose incomes from oil and gas do not exceed $1 million gross a year. It would therefore not affect royalties received by farmers or landowners for the use of their land. It would not affect the allowance granted to small oil producers whose gross income, I repeat, is not in excess of $1 million a year.

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

Mr. DOUGLAS. I yield for a question.

Mr. CARROLL. The State of Colorado has become a very important oil producing State. Denver has become an administrative oil center. Will the Senator from Illinois tell me how his amendment compares with the amendment which he presented 2 or 3 years ago, to which the Senator from Wyoming, Mr. O'Mahoney, had an amendment? Is the O'Mahoney amendment included in the Senator's amendment?

Mr. DOUGLAS. It is the same amendment which I have presented on numerous occasions since 1955, I believe; namely, to maintain the depletion allowance intact with respect to those whose gross income from gas and oil was less than $1 million a year; to reduce the allowance from 27½ percent to 21 percent for those with gross incomes from gas and oil between $1 million and $5 million a year; and to reduce the allowance to 15 percent for those whose gross income from gas and oil is more than $5 million a year.

Mr. CARROLL. Can the Senator from Illinois draw upon his recollection to inform the junior Senator from Colorado as to the provisions of the O'Mahoney amendment which was included in the vote 2 or 3 years ago? The junior Senator from Colorado does not recall the provisions.

Mr. DOUGLAS. I regret to say that neither can I recall its provisions.

Mr. CARROLL. It was my impression that at that time the Senate voted on the amendment as modified by the amendment of the former Senator from Wyoming, Mr. O'Mahoney. I was hoping that the Senator from Illinois could inform me in that respect.

There is a growing feeling among certain groups, especially small refiners, that the extensive application of the benefits from the depletion allowance, not within the continental limits of the United States, has given a great economic advantage to some of the great major oil companies of the Nation operating in foreign nations which affects the small refiner's marketing position within this country. If I am not mistaken, the former Senator from Wyoming, Mr. O'Mahoney, and the junior Senator from Colorado at one time had an amendment in which we explored the possibility that perhaps the depletion allowance ought to be confined to the continental limits of the United States.

One of the reasons for that was based upon the hearings of the Subcommittee on Antitrust and Monopoly, namely, that excessively large depletion allowance benefits were given to major oil companies which had extensive holdings in Saudi Arabia.

Mr. DOUGLAS. May I reply to that?

Mr. CARROLL. I shall be happy to have the Senator do so, if I may complete this thought.

The former Senator from Wyoming, Mr. O'Mahoney, and I, after those hearings hoped that there might be some joinder of opinion or some union of action among the independent oil companies in support of our position, because we felt that this situation was contributing the tremendous financial windfall which was influencing the marketing situation in the United States today. I have been told this has been happening, although I am not an expert in this field. This is not a small matter; it involves hundreds of millions of dollars which are being currently used, some small independents and some small refiners feel, to their disadvantage and to that of our domestic economy.

If the Senator from Illinois would like to comment on that thought, I should be happy to have him do so.

Mr. DOUGLAS. The Senator from Colorado makes a very important point. It is notorious that the Arabian-American Oil Co., which in turn is owned by several American oil companies, and which has the concessions in Saudi Arabia, to which the Senator from Colorado refers, pays virtually no taxes—I think absolutely no taxes—to the United States, although it makes enormous profits. It is able to avoid taxes by reason of the fact that the 50-percent royalty payment which it makes to Saudi Arabia is called a tax rather than a royalty; and, as a tax, is therefore offset against the American tax which the Arabian-American Oil Co., or the parent companies, would otherwise pay.

The big oil companies which do business in Latin America and the Western

Hemisphere have a 14-point tax reduction; but whether they in turn are able to disguise royalties as taxes, and hence avoid the payment of any taxes on their business overseas, is not a subject on which the Senator from Illinois can speak. But they do obtain a depletion allowance.

The amendment of the Senator from Illinois applies to the companies overseas as well as those at home; and since the companies overseas are huge organizations, their depletion allowance would be reduced from 25 percent to 15 percent.

In this way, the smaller companies in the United States would not be taxed as severely as are the big companies overseas or at home, and therefore would have a relative advantage in comparison with the big companies. This would help the independent, nonintegrated refiners. It would also help independent oil distributors who are finding themselves under heavy pressure by reason of predatory price cutting carried on by gasoline stations really owned by the big integrated companies, even though there may be the disguise of a lease.

Mr. CARROLL. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

Mr. CARROLL. In the short time which the junior Senator from Colorado has had to prepare for this discussion, he does not in any way wish to draw from the amendment the strength to which it is entitled, because it is his opinion that the amendment will suffer the fate of other amendments which have been proposed to the bill. Therefore, if I may express my personal opinion, I do not feel that there is any chance for the adoption of the amendment. However, I wish to make the RECORD clear for the people in my State that the able Senator from Illinois has put his finger on a subject which involves many small refiners. They are not so much concerned, if I interpret their viewpoint correctly, about what we call the reduction of the depletion allowance from 27½ percent to 15 percent. What they wish to do is to change the whole concept of the law. Rather than have a depletion-of-capital concept, what they are thinking about is the use of the money that they get for depletion allowance in the foreign countries for exploratory purposes in our own country. That is the proposition as it has been presented to me. In other words, they do not want this great financial windfall to be put into the hands of the giant oil companies which can control the market and the marketing facilities. It is not so much that the big companies undercut the market; it is that they are in a position, with their huge financial resources, to establish marketing systems with which the small refiners and the small independents cannot compete.

Mr. DOUGLAS. My amendment, with its differential rate according to the amount of business done, would naturally help the small producer, the small refiner, and indirectly the small distributor, as compared with the giant oil companies. It would also lessen some of the differential advantage which the big companies get from their operations abroad—notably, the Standard Oil group.

Mr. CARROLL. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

Mr. CARROLL. To be completely realistic, I have voted on this issue a number of times. Its effects have been in my mind and my philosophy from the days of Franklin Roosevelt, who advocated such a reduction 20 years ago; and from the days of President Truman, who advocated such a cut in 1948 or 1949. Having seen this concept defeated repeatedly upon the floor of the Senate, I think a realistic view is that even the independent producers today—I believe that is true in my own State—are still influenced by the major oil companies and have not yet seen the handwriting on the wall. But I believe they are beginning to see it more clearly each year. I think they are beginning to see it more clearly year after year, because of the point I make about their great wealth of economic resources enabling them to set up marketing conditions with which they cannot compete.

Mr. DOUGLAS. Mr. President, I wish to supplement what the Senator from Colorado has said. One of the distinguishing features in the early years when we were attacking the depletion allowance was the way in which the small independents would attack the proposal. The big companies were able to hoodwink them and would whip them into line.

The Senator from Illinois has been greatly encouraged by the fact that in the past few months a number of the smaller independent operators have come forward and said, "Now we see that this proposal would be a protection to us, and would decrease the power of the big companies."

As I have said, one very interesting development is the way in which the independent owners of companies and distributing stations are coming around. They say that the big integrated companies—the Standard Oil group, Texaco, Shell, Gulf, and other large companies which have wells, refineries, and stations, are using their profits, made in large part from not paying taxes to the U.S. Government, to expand the distributive end of their businesses in part by predatory local price cutting or by driving the independents out of a given market, and then, when they have been driven out, again raising prices and moving on to another market.

Some of them have come to see that the depletion allowance helps to finance the onward march of the big companies. It has taken them a long time to learn this, and their knowledge may well come too late. But it is dawning on them.

Mr. CARROLL. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

Mr. CARROLL. What the Senator from Illinois has just stated is what I have recently learned from a small refiner—in other words, the growing understanding of the domestic economic consequences and effects of the depletion allowance. But I must qualify that by saying that I refer to the effect of the depletion allowance on the companies abroad, where the big resources are. I recall an annual financial statement that one company which operates in Saudi Arabia has a depletion allowance of $120 million.

The small domestic refiners begin to see that this great financial wealth and financial strength are having an immediate effect upon refiners and distributors in this country.

But I point out that this is not presently a great popular issue in Colorado, and it is impossible to educate the people in a short period of time.

Mr. DOUGLAS. We have been trying to educate the public for 11 years, since this issue was first raised in 1951.

Mr. CARROLL. I understand that the able Senator from Illinois has rendered a magnificent service.

Mr. DOUGLAS. No; apparently I have done very poorly.

Mr. CARROLL. I was referring to my own State. I can hear some in my State say, "The junior Senator from Colorado is against the depletion allowance, and his position will destroy the oil industry in our State."

The Senator from Illinois seeks to limit the depletion allowance for both the domestic economy and foreign producers; but I would like first to limit the depletion allowance for companies beyond the continental limits of the United States; and then we can consider dealing with the situation at home. The companies beyond the continental limits of the United States have great financial resources.

The Senator from Illinois has been fighting for years for the adoption of this amendment, and I have been fighting for it for a few years. No doubt we shall be defeated. But I point out that I should like to have the depletion allowance confined, as a first step, to the continental limits of the United States.

Mr. DOUGLAS. I hope the Senator from Colorado will prepare such an amendment. But again I point out that since the operations abroad are on a much larger scale than those in the United States, this amendment, when applied both abroad and at home, would affect the big companies abroad more than it would affect the average company at home. That is the point.

Mr. CARROLL. I thought I had stated that Senator O'Mahoney and I had prepared such an amendment, but there was no general support for it.

Although I cannot accept the full implications of the amendment of the Senator from Illinois, I intend to support his position, until we can make a better fight; and I hope some day it will be a winning fight.

Mr. DOUGLAS. I appreciate the support of the Senator from Colorado; it is characteristic of him.

I voted against tabling the amendment of the Senator from Delaware [Mr. WILLIAMS], although I did not think that amendment was the best way to treat this subject. That amendment would have reduced the allowance to 20 percent, regardless of the size of the operator. It would have cut the royalty allowance of the farmer upon whose land oil is found, and from which oil flows; and the amendment also would have included the income tax provisions, which I think inappropriate.

It was my intention—had not the guillotine fallen on his amendment—to have offered my amendment as a substitute. But since that became impossible, I felt that we should not close the debate after merely 1 hour, and that I should not be foreclosed from offering my amendment as a substitute.

So, although I would have voted against the Williams amendment, if the question of its adoption had been before us, I felt that we should not close the debate at that point.

My amendment is free from the defects which I think the Williams amendment had. In other words, my amendment is graduated according to the size of the operations. Farmers who own land from which oil is taken and whose income is less than $1 million—and that is true of virtually all of them—would lose absolutely nothing by means of my amendment. The small operator—one with one, two, three, or four wells—would lose nothing by means of my amendment. The fairly large operators, with gross incomes between $1 million and $5 million a year, will have their depletion allowance reduced by 5 percent. The very large operators—those with annual incomes of more than $5 million—would have their depletion allowance reduced 12½ points.

Under my amendment there would be a gain of somewhere between $350 million and $500 million a year in revenue.

Mr. CARROLL. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I am glad to yield.

Mr. CARROLL. For the reasons which the Senator from Illinois has stated far more ably than I could have done, I, too, voted against the motion to lay the Williams amendment on the table, because I think this subject should be fully discussed. It involves a very important issue.

If I had known that this matter was coming up on the floor of the Senate, I might have offered the amendment of Senator O'Mahoney, which increased the gross amount of your amendment. Senator O'Mahoney was one of the great fighters for the independent oil groups of Wyoming—or what we call the Rocky Mountain Oil Association; and when he drew up the amendment, I felt that it was one to which I could subscribe. I voted for it; and if I had had time, I would have offered it today.

Mr. DOUGLAS. Let me say to my friend that it is relatively easy for a Senator to support such amendments if there is no oil production in his State. But it so happens that Illinois is the fourth largest oil-producing State in the Nation. One congressional district in Illinois obtains its major revenue from oil. The oil operators in my State have consistently been opposed to me. But I go into that district and I explain my position. I go into the various centers of the oil industry—at Carmi, Mount Carmel, and other towns. Incidentally, I carried that district by a very handsome margin, although the oil producers poured a lot of money into it in their attempt to defeat me.

Mr. CARROLL. Mr. President, few Members of the Senate have such persuasive charm as does the Senator from Illinois.

Mr. DOUGLAS. Oh, no; the Senator from Colorado is carrying his compliments much too far.

Mr. CARROLL. The Senator from Illinois also has a great consumer area which can balance that situation.

Mr. DOUGLAS. I point out that I consistently opposed the depletion allowance, and I met the oil people in debate.

Mr. CARROLL. Those of us who come from areas where there is a very sparse population find that the oil groups have great financial and economic strength. Certainly this is not an easy issue for us to carry to the people.

Mr. DOUGLAS. I understand.

Mr. CARROLL. So in such areas we are faced with great difficulty.

Mr. DOUGLAS. I understand. If the Senator could make the independent oil men have any sense, they should realize that this amendment would help them against the pressure of the big, integrated companies that are putting them out of business. If they have brains enough to go into the proposal—and the industry is supposed to be composed of able men—they should have brains enough to understand that.

Mr. CARROLL. Mr. President, the able Senator from Illinois has convinced me. I shall ask him to come out to Colorado and talk to the oil producers there; I think he could convince them.

Mr. DOUGLAS. I shall be very glad to come there, unless my presence would hurt the able Senator from Colorado—which I am afraid it might do.

Mr. CARROLL. Mr. President, I thank the able Senator from Illinois for his customary patience.

Mr. DOUGLAS. Mr. President, this amendment strikes at the greatest abuse among the many abuses in our whole tax system.

PRESENT BILL MAKES THINGS WORSE

The many unjust tax privileges now embodied in the revenue system cost the Government several billion dollars a year in revenue. These privileges, sometimes called loopholes—perhaps better termed truck holes—have increased over the years, so that the tax structure of the country is now seriously eroded. The present bill would make the situation worse.

The President thought he was going to close some loopholes, but he did not reckon with the House and the Senate. We end by opening more loopholes than we closed. We wind up opening up the investment credit abuse to the tune of about $1,300 million.

A lobbying provision has been added opening the floodgates to the special interests and selfish interests, and putting pressure on all the legislative bodies of the country.

We have not improved the situation with regard to the expense account abuse; and indeed in some respects we may have made it worse.

We backed down on applying the withholding method for the collection of the basic income tax on dividends and interest. We failed to close that loophole.

We granted to the utilities a 3-percent investment credit, which is totally unnecessary, and which will be a windfall to them.

We granted a 7-percent credit to gas pipelines, which have many powerful friends on both sides of the aisle.

This bill would make the situation worse, rather than better.

In addition, there is H.R. 10. I assume the understanding is that while that bill is not attached to the pending bill, the bipartisan leadership will put it through shortly after action on this bill is completed.

OIL AND GAS DEPLETION GREATEST ABUSE

Of all the abuses, the depletion allowance on oil and gas is the worst. Unless Congress cures this and other erosions and injustices, these abuses will continue to spread like a cancer through our tax system.

I have said that the 27½-percent depletion allowance on income from oil and gas is the worst of the many tax loopholes. Let me review the situation so far as oil and gas are concerned. Under the present law, the host of costs and special allowances are deductible from gross income even before the depletion allowance applies. I wish to enumerate them.

OPERATING COSTS DEDUCTIBLE

First, of course, there are operating costs. This is a deduction which every industry has, and properly so, but perhaps it is the only deduction every industry has which is not a special deduction for the oil industry.

INTANGIBLE DRILLINGS COSTS

Second, the gas and oil industry is credited with intangible drilling and development costs. These can be written off in 1 year, and not spread over a period of years, as is the case in other industries. It has been estimated that between 75 and 90 percent of all costs can be written off in this manner. We have, therefore, accorded to this industry virtually the ultimate in accelerated depreciation and fast writeoffs. This is in addition to and apart from the depletion allowance. Thus, there is the very great advantage of the fast writeoff, which many experts tell me is far more advantageous than even the oil depletion allowance.

I am not proposing in my amendment to alter this situation. It applies abroad as well as at home. Most of the costs can be written off in 1 year.

WRITEOFF OF DRY HOLES

Third. The cost of drilling unsuccessful, or so-called dry holes, can be written off against the income from successful drillings.

FOURTEEN-POINT WESTERN HEMISPHERE DEDUCTION

Fourth. There is a 14-point reduction in the tax itself, or a reduction from 52 to 38 percent on taxable income, for income derived from operations abroad in the Western Hemisphere, notably in the oil centers of Venezuela, but also in Mexico and other countries. I point out that Standard Oil has the big drillings and fields in Venezuela.

ROYALTY PAYMENTS DISGUISED AS TAXES

Fifth. As I mentioned in my colloquy with the Senator from Colorado, royalty payments abroad, particularly in the Near East, are commonly disguised as

income tax payments, for which the foreign tax credit is then available. The 50–50 plan was started, I believe, in Latin America, was then applied to the Middle East, and now has been applied to Persia and throughout the Middle East. This is really a royalty, but it is called a tax, and therefore it offsets to that degree the tax which the American company would otherwise pay on its income from abroad.

I think it is well known that the Arabian American Oil Co., which is a subsidiary of three Standard companies, probably does not pay a single dollar in income tax to the American people, although its profits run into the hundreds of millions of dollars. There are also tax havens; and as the Senator from Tennessee has pointed out, oil executives abroad, who declare that they are permanent residents abroad, up to now have paid no personal income tax, and under the present bill would be exempted on $35,000 of income.

PERCENTAGE DEPLETION ALSO

All these provisions would seem to be extremely generous, but the oil and gas industry is permitted a still further allowance called the percentage depletion allowance. In the case of gas and oil, this amounts to an additional 27½ percent of gross income up to one-half of net income. This allowance is, moreover, permitted in perpetuity as long as there is any flow of oil or gas from the well.

There are wells in the east Texas field which started gushing 40 or 50 years ago, and which are still continuing. I believe there is one in the original Galveston field which is still going. The depletion allowance was put into effect in 1926. The owners of such wells have deducted the depletion allowance every year since 1926, or 36 years ago.

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

Mr. DOUGLAS. I yield.

Mr. CLARK. I have heard it said—and I wonder if the Senator knows whether it is true—that there are instances in which an oil operator has recovered, through the depletion and other allowances, 19 times the cost of the well.

Mr. DOUGLAS. I can well believe that. There is no limit to the depletion allowances as compared to the original cost of the well. They are not limited to the original cost, and in the case of rich wells and long-gushing or long-flowing wells, the deduction of the depletion allowance has gone on interminably, without any regard whatsoever to original cost. Nineteen times the cost seems a very modest figure to me.

I emphasize again that this depletion allowance is not limited to recapturing the cost of the well in question. Most of this cost, as we have seen, is recovered for tax purposes in the year the outlay is made, through the intangible drilling and development cost deduction.

I emphasize that the depletion allowance is in addition to all other deductions. It continues through time without relationship to the taxpayer's investment in the venture and whether or not the investment has been recovered for tax purposes.

As I previously said, the beginnings of the allowance go back about 36 years, to 1926, when an effort was made to revise the prevailing discovery depletion provisions.

ONE ABUSE HAS LED TO ANOTHER

From its inception the percentage depletion allowance has been 27½ percent. As the Senator from Delaware [Mr. WILLIAMS] pointed out early in the afternoon, as corporation income taxes have risen from 14 percent to the present 52 percent, the value of this allowance has grown. Not only is this true, but also it has brought in its train a host of similar deductions on virtually everything else extracted from the earth and from the sea—sulfur, coal, uranium, helium and every other mineral. In 1951 former Senator Connally of Texas was able to include oyster shells and clam shells, and other Senators were able to have sand and gravel covered. There would seem to be no danger of dry holes in the cases of oyster shells, clam shells, and sand and gravel.

The depletion allowance is almost a perfect example of a case in which, instead of closing a loophole in the law, an attempt has been made to make the loophole universal.

In 1956, which is the latest year for which I have been able to obtain official figures, the total deductions for depletion allowances in the extractive industries were approximately $3 billion. For oil and gas alone, the deductions in that year amounted to more than $2 billion.

This is the citadel of privilege. This is the greatest waste of the taxpayers' money. This is the truck hole which enables certain special favored groups to get enormous privileges from the Treasury and from the taxpayers.

OIL COMPANIES EFFECTIVE TAX RATES LESS THAN HALF NORMAL RATE

The Joint Economic Committee, of which I was chairman at that time, in 1955 had a compendium made on Federal tax policy. It collected a great deal of very interesting material.

We found that the effective tax rate which was paid by 24 large petroleum companies, upon net income, was only 22.6 percent, whereas all other corporations in that year paid taxes at an effective rate of 48.1 percent. In other words, the fact is that the oil industry pays less than half the taxes, percentagewise, which other industries pay.

That very fact leads to an overinvestment in the oil industry, as compared to other industries, and an improper use of the resources of labor and capital attracted there by tax favors.

I have made a study of 27 producing companies dealing in oil or gas. I shall introduce that into the RECORD very shortly. It shows that many such companies paid infinitesimal fractions of their profits in taxes.

INDIVIDUAL EXAMPLES

Eleven years ago, when some of us first started fighting this excessive depletion allowance, the Secretary of the Treasury published official statistics on certain unidentified individuals in the oil and gas industry, which showed that one individual who had a net income in the years 1943 to 1947 of $14,300,000 paid income taxes of only $80,000 in the entire period of time. In other words, this man paid $6 in taxes for every $1,000 of income. He paid less taxes proportionately than a poor workman getting $3,000 a year, or $60 a week.

Mr. President, a table submitted by the Secretary of the Treasury in the House hearings on the Revenue Act of 1950 gives examples of the excessive income tax deductions from the depletion allowance and the allowance for drilling and development costs. I ask unanimous consent that a table showing income, deductions, and tax liabilities of 10 selected individual oil and gas operators for the 5-year period 1943–47 be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. METCALF in the chair). Is there objection to the request by the Senator from Illinois?

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Income, deductions, and tax liabilities of 10 selected individual oil and gas operators for the 5-year period 1943–47

[Money figures in millions]

Individual operator	Net income			Special deductions		Taxable net income	Income tax liability	
	From oil and gas [1]	From other sources	Total	Percentage depletion [2]	Development costs [3]		Amount	Percent of total net income
A	$10.5	$3.8	$14.3	2.2	$13.0	[4] —$0.9	$0.08	0.6
B	5.0	.8	5.8	3.1	2.1	.6	.5	8.6
C	3.9	.5	4.4	3.2	4.4	[4] —3.2	.15	3.4
D [5]	9.3	.3	9.6	2.7	0	6.9	6.1	63.5
E	2.7	.8	3.5	1.0	.3	2.2	1.4	40.0
F	1.7	1.4	3.1	.8	1.5	.8	.6	19.4
G	7.7	—1.3	6.4	3.5	2.1	.8	.5	7.8
H	2.1	3.6	5.7	1.0	.6	4.1	2.2	38.6
I	1.7	.1	1.8	.5	1.0	.3	.2	11.1
J	8.0	—.7	7.3	2.9	1.7	2.7	2.2	30.1
Total	52.6	9.3	61.9	20.9	26.7	14.3	13.93	22.5

[1] Income after deductions for operating expenses, depreciation, adjusted-basis depletion, exploration costs and losses on abandonment.

[2] Excess of percentage depletion over adjusted-basis depletion.

[3] Development costs are expenditures for the preparation of mineral properties for production, which are deducted as expenses in the year incurred. Consequently, these expenditures are not included in the tax basis of the property and future cost or adjusted-basis depletion is correspondingly reduced. The treatment of development costs as a current expense, however, does not diminish percentage depletion in subsequent years, since the latter is determined on the basis of income in those years.

[4] While special deductions more than offset the total net income for the 5 years, some income tax was paid because there were deficits only in some years. A deficit caused by excess percentage depletion cannot be carried over against net taxable income of other years.

[5] Includes only 4 years, 1943–46.

Source: Bureau of Internal Revenue, special tabulation.

Mr. DOUGLAS. Mr. President, while no such statistics have been published by the Treasury in recent years, there is no reason to suppose that the facts are any different or any better now.

The justification given for such a high deduction is that it is a needed inducement for exploration and drilling. There *is* something to this contention, but not enough to justify the added allowance of 27½ percent of gross revenue.

In the first place, the other tax features provided for the industry—as we have seen—are extremely liberal and, in addition to this, the capital gains treatment, which I have not gone into, gives even further advantages.

Another factor is involved. It is that despite the big depletion allowance, the average rates of profit in the industry do not seem to be appreciably higher than in other industries, although the oil and gas industry pays less than half as much percentagewise in taxes as do other industries. This is a very clear indication that the tax favors lead to overinvestment in oil and gas, and that the overinvestment brings the average return down to about the level of other industries—not quite to that level, but to about that level. This brings in inefficient wells and inefficient producers.

Also, in its present form, this helps the big operators in the ways I have indicated.

WHAT THE AMENDMENT DOES

I am, therefore, proposing this amendment which would reduce the depletion allowance of 27½ percent to 15 percent if the taxpayer's gross income from oil and gas wells exceeds $5 million in any one year, but that the allowance be reduced only from 27½ percent to 21 percent for those with a gross income from oil and gas wells of between $1 million and $5 million, and that the depletion allowance remain at 27½ percent for those whose gross incomes from oil and gas wells does not exceed $1 million per year.

If I may be pardoned for saying it for the third or fourth time, it is necessary to drive home the fact that no farmer would lose a dollar from the royalties which he now collects, which normally are one-eighth of the gross income. No small operator would lose a dollar. An operator would have to have a good many wells to lose money. The weight of the reduction in the allowance would be on the big companies, which have enormous profits and which are driving the small producers out of the field.

Mr. President, the amendment is not a punitive one, for first, it would not do away with the depletion allowance altogether; and second, it would not affect at all the small wildcat driller or the small producer, except to his competitive advantage.

PROTECTS SMALL PRODUCER

There is a good reason for this last provision. Drilling for oil and gas involves some risk. It is estimated that only about one in nine wells which are drilled actually produce gas or oil. The small driller, with only a few wells over which to spread this risk, does not have enough wells to assure that he will hit the 1 in 9 and may, in fact, drill 20 or 30 dry holes before hitting oil or gas. Consequently, without a great number of wells over which to spread the risk, he takes a greater risk than the large driller, who will average 1 in 9 successful wells if he drills 100 or 200 wells a year.

Mr. President, it is the practice of the big companies to permit the wildcatters to go out ahead of them, to explore the fields, and to take the risks. When the wildcatters find oil, the big companies move in, take the land, put in multiple wells, and reap the profits.

The Treasury estimated sometime ago that the adoption of this amendment would result in a net revenue increase to the Federal Treasury of $305 to $310 million per year. At the present time I believe this amount would be at least $320 million. Others have estimated that it would bring in as much as $400 to $500 million additional revenue a year.

The latter and more substantial estimate is the one made by the experts attached to the Library of Congress.

I point out that in its present form the tax bill would result in a deficit or loss of revenue of somewhere around $500 to $600 million a year. That is a very serious financial problem.

Mr. McNAMARA. That is a very conservative estimate, too.

Mr. DOUGLAS. The reduction in the depletion allowance would make good most of the loss and would help us to balance the books in large part, so far as the bill is concerned.

Mr. President, I ask unanimous consent that three tables showing the amount of depletion which corporations took as income tax reductions in the period 1946–58, these same deductions by total asset classes for the years 1948–58, and a further table showing corporate depletion deductions and net income by total asset classes for the years 1952–55, and for 1958, be printed in the RECORD at this point in my remarks.

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

Selected corporate business deductions, all corporations, 1946–58

[Dollar amounts in millions]

Deduction	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958
Compensation of officers	$5,143.1	$6,026.4	$6,733.3	$6,743.0	$7,606.8	$8,122.0	$8,430.0	$8,776.7	$9,113.2	$10,480.7	$11,045.1	$11,829.6	$12,395.3
Interest paid	2,251.0	2,501.4	2,758.7	3,045.1	3,211.9	3,700.5	5,013.2	5,680.9	6,270.6	7,058.4	8,281.0	10,004.5	11,070.2
Taxes paid	5,830.5	6,892.9	7,481.7	8,361.3	9,013.2	11,030.8	11,696.8	12,194.9	12,476.9	14,202.6	15,038.5	16,393.0	16,691.7
Contributions or gifts	213.9	241.2	239.3	222.6	252.4	343.0	398.6	494.5	313.8	414.8	418.0	417.3	395.4
Depletion	798.9	1,210.3	1,711.3	1,476.2	1,709.3	2,085.1	2,126.5	2,301.8	2,358.6	2,805.5	3,084.3	3,346.8	3,148.4
Depreciation	4,201.7	5,220.1	6,298.6	7,190.5	7,858.1	8,829.0	9,604.4	10,510.6	} 13,691.5	} 13,418.8	14,952.9	16,968.3	18,677.1
Amortization	64.5	58.9	38.9	30.6	43.3	291.9	831.3	1,515.3		2,590.3	2,625.9	2,463.9	1,999.2
Advertising	2,408.3	3,032.2	3,466.0	3,772.7	4,097.0	4,552.9	5,026.8	5,480.9	5,770.2	6,601.8	7,061.6	7,666.1	7,875.0
Amounts contributed under pension plans, etc.[1]	834.6	1,038.3	1,153.5	1,216.1	1,660.9	2,326.9	{ 2,551.8 [2] 630.4	2,936.3 [2] 860.9	2,840.3 [2] 940.6	3,296.2 [2] 1,146.9	3,645.5 [2] 1,302.9	4,043.0 1,626.2	3,998.7 1,727.3
Other [3]	5,892.1	7,338.4	8,062.8	7,998.7	8,371.3	9,709.7	10,493.6	11,520.5	11,445.5	12,959.1	14,325.4	15,476.4	15,521.2
Total selected deductions	27,638.6	33,560.1	37,944.1	40,056.8	43,824.2	50,991.8	56,803.4	62,273.3	65,191.2	74,975.1	81,781.1	90,235.1	93,499.4
	Percentage distribution												
Compensation of officers	18.6	18.0	17.7	16.8	17.4	15.9	14.8	14.1	14.0	14.0	13.5	13.1	13.3
Interest paid	8.1	7.5	7.3	7.6	7.3	7.3	8.8	9.1	9.0	9.4	10.1	11.1	11.8
Taxes paid	21.1	20.5	19.7	20.9	20.6	21.6	20.6	19.6	19.1	18.9	18.4	18.2	17.9
Contributions or gifts	.8	.7	.6	.6	.6	.7	.7	.8	.5	.6	.5	.5	.4
Depletion	2.9	3.6	4.5	3.7	3.9	4.1	3.7	3.7	3.6	3.7	3.8	3.7	3.4
Depreciation	15.2	15.6	16.6	18.0	17.9	17.3	16.9	16.9	} 21.0	{ 17.9	18.3	18.8	20.0
Amortization	.2	.2	.1	.1	.1	.6	1.5	2.4		3.5	3.2	2.7	2.1
Advertising	8.7	9.0	9.1	9.4	9.3	8.9	8.8	8.8	8.9	8.8	8.6	8.5	8.4
Amounts contributed under pension plans, etc.[1]	3.0	3.1	3.0	3.0	3.8	4.6	{ 4.5 1.1	4.7 1.4	4.4 1.4	4.4 1.5	4.5 1.6	4.5 1.8	4.3 1.8
Other [3]	21.3	21.9	21.2	20.0	19.1	19.0	18.5	18.5	17.6	17.3	17.5	17.1	16.6
Total selected deductions	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] Deductions claimed under sec. 23(p) of the Internal Revenue Code for amounts contributed by employers under pension, annuity, stock-bonus, or profit-sharing plans, or other deferred compensation plans.

[2] Contributions under other employee benefit plans.

[3] Comprises bad debts, repairs, and rent paid on business property.

Source: Internal Revenue Service, Statistics of Income, Corporation Income Tax Returns.

Corporate depletion deductions by total assets classes, 1948–58 [1]

[Dollar amounts in millions]

Assets classes	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958
Under $50,000	$4.9	$3.7	$4.0	$3.5	$3.1	$4.7	$4.2	$5.7	$8.6	$12.5	$9.2
$50,000 and under $100,000	5.5	4.0	4.4	3.7	5.2	3.7	4.3	5.2	6.9	6.4	5.9
$100,000 and under $250,000	16.1	11.9	12.6	12.1	13.5	13.5	15.7	27.2	21.1	22.7	22.3
$250,000 and under $500,000	21.4	16.1	17.1	21.4	21.2	21.4	22.6	26.0	27.5	33.8	32.1
$500,000 and under $1,000,000	40.8	31.4	31.5	41.4	35.1	38.6	32.2	45.1	43.1	47.0	42.8
$1,000,000 and under $5,000,000	126.1	101.0	120.8	160.8	150.3	154.0	147.0	191.5	181.6	174.1	167.0
$5,000,000 and under $10,000,000	72.5	57.5	68.5	83.8	85.7	83.3	73.7	80.0	96.7	124.6	91.4
$10,000,000 and under $50,000,000	245.2	213.1	278.9	318.9	297.7	306.1	290.3	351.2	339.9	358.3	333.6
$50,000,000 and under $100,000,000	89.7	92.8	115.2	120.8	131.2	119.8	134.0	178.1	249.0	241.6	200.2
$100,000,000 or more	1,076.5	895.1	1,038.8	1,299.3	1,370.0	1,539.3	1,517.9	1,869.0	2,082.5	2,308.6	2,232.5
Total	1,698.9	1,426.5	1,691.8	2,065.8	2,112.9	2,284.3	2,242.4	2,779.1	3,056.7	3,329.7	3,137.0
	Percentage distribution										
Under $50,000	0.3	0.3	0.2	0.2	0.1	0.2	0.2	0.2	0.3	0.4	0.3
$50,000 and under $100,000	.3	.3	.3	.2	.2	.2	.2	.2	.2	.2	.2
$100,000 and under $250,000	.9	.8	.7	.6	.6	.6	.7	1.0	.7	.7	.7
$250,000 and under $500,000	1.3	1.1	1.0	1.0	1.0	.9	1.0	.9	.9	1.0	1.0
$500,000 and under $1,000,000	2.4	2.2	1.9	2.0	1.7	1.7	1.4	1.6	1.4	1.4	1.4
$1,000,000 and under $5,000,000	7.4	7.1	7.1	7.8	7.1	6.7	6.6	6.9	5.9	5.2	5.3
$5,000,000 and under $10,000,000	4.3	4.0	4.1	4.1	4.1	3.6	3.3	2.9	3.2	3.7	2.9
$10,000,000 and under $50,000,000	14.4	14.9	16.5	15.4	14.1	13.4	12.9	12.6	11.1	10.8	10.6
$50,000,000 and under $100,000,000	5.3	6.5	6.8	5.8	6.2	5.2	6.0	6.4	8.1	7.3	6.4
$100,000,000 or more	63.4	62.7	61.4	62.9	64.8	67.4	67.7	67.3	68.1	69.3	71.2
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] All returns with balance sheets.

Source: Internal Revenue Service, Statistics of Income, Corporation Income Tax.

Corporate depletion deductions and net income by total assets classes, 1952 [1]*–55*

[Dollar amounts in millions]

Assets classes	1952			1953			1954			1955		
	Net income [2]	Depletion deductions	Depletion deductions as percent of net income	Net income	Depletion deductions	Depletion deductions as percent of net income	Net income	Depletion deductions	Depletion deductions as percent of net income	Net income	Depletion deductions	Depletion deductions as percent of net income
Under $50,000	$382.5	$2.6	0.7	$370.6	$3.2	0.9	$354.9	$3.3	0.9	$422.6	$4.7	1.1
$50,000 and under $100,000	577.0	4.7	.8	539.3	3.1	.6	518.1	2.9	.6	631.3	4.1	.6
$100,000 and under $250,000	1,364.9	11.2	.8	1,251.1	11.2	.9	1,281.3	13.3	1.0	1,571.8	20.8	1.3
$250,000 and under $500,000	1,336.0	17.5	1.3	1,228.0	18.0	1.5	1,252.2	17.5	1.4	1,589.6	22.0	1.4
$500,000 and under $1,000,000	1,644.7	27.4	1.7	1,473.2	28.8	2.0	1,459.3	23.9	1.6	1,871.0	37.0	2.0
$1,000,000 and under $5,000,000	4,716.4	129.2	2.7	4,331.5	120.1	2.8	4,172.5	120.8	2.9	5,293.6	155.2	2.9
$5,000,000 and under $10,000,000	2,319.1	64.6	2.8	2,188.6	70.2	3.2	2,025.7	59.5	2.9	2,410.3	65.5	2.7
$10,000,000 and under $50,000,000	6,105.7	250.9	4.1	6,123.9	263.6	4.3	5,555.0	245.0	4.4	6,736.3	305.1	4.5
$50,000,000 and under $100,000,000	2,806.5	122.4	4.4	2,854.4	106.5	3.7	4,813.8	113.4	4.0	3,174.9	157.6	5.0
$100,000,000 or more	19,105.5	1,350.5	7.1	21,384.2	1,515.6	7.1	20,085.6	1,489.9	7.4	26,568.5	1,835.9	6.9
Total	40,358.3	1,980.9	4.9	41,750.9	2,140.3	5.1	39,518.4	2,089.3	5.3	50,270.9	2,608.1	5.2

[1] Returns with balance sheets and net income.
[2] Compiled receipts less compiled deductions as shown in Statistics of Income.

Source: Internal Revenue Service, Statistics of Income, pt. 2.

Corporate depletion deductions and net income, by total assets classes, 1958 [1]

[Dollar amounts in millions]

Assets classes	1958			Assets classes	1958		
	Net income [2]	Depletion deductions	Depletion deductions as percent of net income		Net income [2]	Depletion deductions	Depletion deductions as percent of net income
Under $50,000	$514.7	$7.8	1.5	$5,000,000 and under $10,000,000	$2,169.1	$62.9	2.9
$50,000 and under $100,000	746.2	4.3	.6	$10,000,000 and under $50,000,000	5,694.5	289.3	5.1
$100,000 and under $250,000	1,770.7	15.2	.9	$50,000,000 and under $100,000,000	2,960.8	158.0	5.3
$250,000 and under $500,000	1,637.7	26.8	1.6	$100,000,000 and over	21,985.2	2,049.3	9.3
$500,000 and under $1,000,000	1,747.7	30.2	1.7				
$1,000,000 and under $5,000,000	4,489.6	131.8	2.9	Total	43,716.2	2,775.5	6.3

[1] Returns with balance sheets and net income.
[2] Compiled receipts less compiled deductions.

Source: Internal Revenue Service, Statistics of Income, Corporation Income Tax Returns, 1958–59.

TABLE 40.—*Corporate depletion deductions and net income, by major industrial group, 1958* [1]

[Dollar amounts in millions]

Major industrial group	Net income [2]	Depletion deductions	Depletion deductions as percent of net income	Major industrial group	Net income [2]	Depletion deductions	Depletion deductions as percent of net income
All industries	$44,148.2	$2,783.4	6.3	Transportation, communication, electric, gas and sanitary services	$6,114.7	$90.4	1.5
Agriculture, forestry, and fisheries	231.4	2.2	1.0	Wholesale and retail trade	5,440.3	18.5	.3
Mining	1,191.6	657.1	55.1	Finance, insurance, and real estate	8,803.5	105.8	1.2
Construction	939.5	6.3	.7	Lessors of real property except buildings	97.4	25.3	26.0
Manufacturing	20,314.2	1,901.7	9.4	Services	1,084.2	1.5	.1
Chemicals and allied products	2,651.0	79.7	3.0	Nature of business not allocable	22.9	4.3	18.8
Petroleum refining and related industries	1,451.7	1,369.6	94.3				
Stone, clay and glass products	889.1	153.9	17.3				
Primary metal industries	1,763.3	107.8	6.0				

[1] Returns with net income.
[2] Compiled receipts less compiled deductions.

Source: Internal Revenue Service, Statistics of Income, Corporation Income Tax Returns, 1958–59.

Mr. DOUGLAS. Mr. President, the first table shows that in 1958, the total amount of deductions for depletion by all corporations was in the amount of $3,148,400,000. The second table shows that some $2,232,500,000 of the corporate depletion deductions in 1958, or some 71.2 percent of them, were taken by corporations with net assets of over $100 million. Thus, the really big corporations took the giant's share—over two-thirds—of the depletion allowances.

This is not something that goes to the small man. It is something that goes to the giant corporations. My amendment would exempt the small operator.

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

Mr. DOUGLAS. I am glad to yield.

Mr. PROXMIRE. Is it not true that the amendment of the Senator from Illinois provides that the large firm, that is, the firm which grosses more than $5 million a year, would have its depletion allowance reduced to 15 percent, but the small firm, which grosses less than $1 million, would have no reduction in depletion whatsoever?

Mr. DOUGLAS. That is absolutely correct.

Mr. PROXMIRE. Is it not also correct that the amendment would not eliminate a depletion allowance for larger firms; but would provide an allowance near the highest level which other minerals enjoy?

Mr. DOUGLAS. Operators in the sulfur industry receive 23 percent.

Mr. PROXMIRE. With the exception of sulfur and a few other minerals. For some minerals, as I understand, operators obtain as little as 5 or 6 percent depletion allowance. Others get 15 percent.

Mr. DOUGLAS. That is true, although the allowance on oyster shells and clam shells is rising, and I believe it is rising on sand and gravel.

Mr. PROXMIRE. So the incidence of the increased revenue the Federal Government would receive on the basis of the amendment of the Senator from Illinois would fall upon the big firms, and to a much lesser extent on firms of moderate size, that is, firms which gross between $1 and $5 million.

Mr. DOUGLAS. Yes; and landowners would get exemption.

Mr. PROXMIRE. The fabled and time-honored wildcatter, as long as he operated on a reasonably small scale, would also be exempt?

Mr. DOUGLAS. The Daniel Boones of the oil industry would not have their depletion allowance reduced. They could still go scouting ahead.

Mr. PROXMIRE. The amendment of the Senator from Illinois would primarily provide that the giants of the petroleum industry, that is, those firms with assets over $100 million a year——

Mr. DOUGLAS. Over $5 million a year.

Mr. PROXMIRE. I understand that, but the Senator gave statistics showing——

Mr. DOUGLAS. Those that had assets of over $100 million.

Mr. PROXMIRE. I should say firms that had assets of more than $100 million. Those firms took what proportion of the total depletion allowance?

Mr. DOUGLAS. They took 71 percent of the total depletion allowance.

Mr. PROXMIRE. More than two-thirds?

Mr. DOUGLAS. The Senator is correct.

Mr. PROXMIRE. Those would be the firms, primarily, which would pay more taxes to the Federal Government under the Senator's amendments.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. Is it not also true that the industry is far more lightly taxed than is industry generally?

Mr. DOUGLAS. The figures which I introduced show that the 24 leading oil firms paid approximately 22 percent of their profits in taxes, whereas all corporations paid approximately 48 percent. So based on this study oil firms pay less than half the taxes that business corporations as a whole pay. That has led to overinvestment in the industry.

Mr. PROXMIRE. I thank the Senator.

Mr. DOUGLAS. I thank the Senator from Wisconsin. His views on this, as on so many other points, are cogent and well taken.

Mr. President, back in 1950, Secretary of the Treasury Snyder came before the House Ways and Means Committee and urged that it reduce the depletion allowances. He made a very cogent argument for his position, and he further placed in the record a great many facts and figures which were informative and persuasive. I ask unanimous consent that his testimony and exhibits, which appear in the hearings of the Ways and Means Committee on the Revenue Revision of 1950, volume 1, February 3, 1950, be printed in the RECORD at this point.

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

SECRETARY OF TREASURY SNYDER

[From hearings, Ways and Means Committee, 81st Cong., 2d sess., vol. 1., Feb. 3, 1950]

SPECIAL DEPLETION ALLOWANCE

Depletion in ordinary accounting usage is intended to permit taxpayers to recover the cost of mineral properties over the producing life of the properties. Depletion is the counterpart of depreciation which is intended to permit recovery of the cost of other assets over the period of their useful life. When the original investment has been recovered, no further depreciation is allowed for tax purposes. However, in the case of depletion, special provisions which allow recovery of more than the cost of mineral properties have been in the law since 1918.

Under present law, special allowances are granted on the basis of specified percentages of gross income for different types of minerals. The percentage of gross income allowed is 27½ percent for oil and gas, 23 percent for sulfur, 15 percent for metals and a large number of nonmetallic minerals, and 5 percent for coal.

Percentage depletion continues for the life of the property and generally results in the tax-free recovery of many times the cost. It is granted to those purchasing properties as well as to those operating properties they have developed. The allowances have become more valuable as tax rates have been increased.

Furthermore, the benefits from percentage depletion are increased by provisions which permit development costs to be deducted as an expense in the year incurred instead of being treated as a capital cost to be recovered later through depletion deductions. This is equivalent to a double deduction for the same costs, once when they are incurred and again under percentage depletion. In the oil industry during 1946 and 1947, for every $3 million allowed as percentage depletion, another $2 million was deducted as development costs.

The combination of percentage depletion and the expensing of development costs provides a mechanism for pyramiding extensive holdings in oil assets with payment of little or no income tax.

As the President has indicated, millions of dollars are made annually from operating oil properties on which little or no income tax is paid. The President mentioned one outstanding example. You will find others in the attached material (exhibit 2). In the examples cited, annual incomes, on the average, of over $1 million were obtained on which an average tax of only 22½ percent was paid. This is the rate now paid by persons with incomes of less than $25,000.

These illustrations suggest how much additional revenue the Government would gain by limiting some of these special allowances.

You will find from an examination of the materials I am submitting to assist the committee in considering revision of these provisions that:

First, the estimated revenue loss is between $400 and $500 million annually. This is as much as the yield of all the retail excises.

Second, the allowance is especially excessive in the case of oil and gas and exempts a higher proportion of the earnings of this industry which may expense more of its development costs than the other mineral industries.

Third, the provision has been found to be of little benefit to small prospectors on whose behalf it is so frequently supported.

Fourth, these deductions enable high-income individuals to reduce to negligible proportions taxes on income from sources totally unrelated to these industries.

There are a number of ways in which the necessary revision of present allowances can be accomplished. In general, these involve either the limitation of percentage depletion or the termination of the option to expense development costs. The benefits of expensing development costs are confined to the finding of new properties. Percentage depletion on the other hand may be obtained on established as well as new properties, and regardless of whether the recipient contributed to the development of the property. The reduction of percentage depletion would tend to reduce windfalls while protecting incentives for exploration.

A reasonable way to reduce the excessive benefits would be to limit the percentage of gross income which might be deducted as depletion. A reduction in the present net income limitation would leave the more excessive allowances untouched while reducing the benefits on the small, less profitable properties.

Specifically it is proposed that percentage depletion for oil, gas, and sulfur be reduced to 15 percent of gross income and that percentage depletion for nonmetallic minerals be reduced to 5 percent. The existing 15-percent rate for depletion allowed to the metals would be left unchanged.

It is further proposed that oil and gas operators who elect to expense intangible drilling and development costs be required to reduce income from the property by the amount of such expensed costs in computing their depletion allowance. This requirement will reduce the extent of the double deduction now enjoyed by oil and gas enterprises with respect to certain of their capital costs.

Together these proposals would remove the more obvious inequities of the present system without interfering significantly with production incentives.

EXHIBIT 2

SPECIAL DEPLETION ALLOWANCES FOR MINERAL PROPERTIES

One of the major avenues of escape from income tax is the special depletion allowance now accorded mineral properties. This subject has received consideration by congressional committees on a number of occasions.

Nearly 25 years have passed, however, since the date of the investigation of depletion costs on which present allowances were established. In the intervening years there have been important basic changes in those industries.

This study presents current information on the basic aspects of this problem and discusses the considerations affecting the desirability of the present allowances.

I. PRESENT PROVISIONS

The Federal income tax recognizes depletion of wasting mineral assets as a deductible cost in determining net taxable income. The purpose is to allow the taxpayer to recover tax free the capital he has invested in the mineral property. Special allowances in excess of cost are granted to certain groups of taxpayers. In most cases these special allowances are based on a percentage of gross income. Of less importance are special allowances based on discovery value.

(a) *Percentage depletion*

Percentage depletion is computed as a specified percentage of gross income, without regard to the capital cost of the property. The rates range as high as 27½ percent of gross income in the case of petroleum, but the deduction is limited to 50 percent of the net income (computed without regard to depletion) from the particular property. The following percentages of gross income are allowed different minerals under present law.

Mineral:	*Percentage rate on gross income*
Oil and gas	27½
Sulfur	23
Metals	15
Coal	5
Bauxite, fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc (including pyrophyllite), lepidolite, spodumene, barite, ball, sagger, and china clay, phosphate rock, rock asphalt, trona, bentonite, gilsonite, thenardite, and potash	15

Percentage depletion continues to be deductible even after 100 percent of the invested capital has been retrieved tax free. The total tax-free recoveries may be substantially in excess of the cost of the property, and in a large number of cases amount to many times the capital investment.

(b) *Discovery depletion*

Those minerals which are not eligible for percentage depletion may qualify for discovery depletion, under certain conditions. Owing to the wide range of minerals excluded because they are eligible for percentage depletion, and the special conditions attaching to the use of discovery depletion, it applies only to certain nonmetallic substances and is of limited significance at the present time.

Under discovery depletion, a taxpayer who discovers a mine on an unproven tract, the value of which is materially larger than the cost to the taxpayer, is allowed depletion deductions designed to amortize the appreciated discovery value over the economic life of the mine. As in the case of percentage depletion, the annual deduction for discovery depletion is limited to 50 percent of the net income from the property. However, aggregate tax-free recoveries under this method are limited to the discovery value.

(c) *Cost or adjusted-basis depletion*

Percentage depletion is one of the most complex provisions in the tax law. Depletion allowances are computed with respect to each individual mineral property. Mineral-tax payers commonly own several, and in many cases thousands of properties. Each year for each property the taxpayer takes the largest depletion deduction allowable. Both gross and net income must be determined for each separate property to compute percentage depletion. Moreover, a corporate-tax payer's accounting for each property entitled to percentage depletion must reflect each of the three different depletion concepts: (1) Allowable depletion, including percentage or discovery, (2) adjusted-basis depletion, and (3) strict cost depletion.

In all cases the taxpayer is allowed depletion based on cost as a minimum. The annual cost depletion (usually termed adjusted-basis depletion) is computed by spreading the original cost, less amounts previously recovered tax free, over the estimated remaining life of the property, measured in units of mineral product. Increased deductions for percentage depletion reduce the remaining cost or adjusted basis more rapidly. Therefore, the adjusted-basis depletion, which represents the minimum annual deduction, must be recomputed at a lower figure each year after percentage depletion is taken.[1] When the original cost is exhausted through depletion allowances the adjusted-basis depletion is reduced to zero, although percentage depletion may continue to be deducted.

Corporations also account for annual cost depletion computed without regard to amounts recovered from time to time through percentage depletion, in determining their net profits for reports to stockholders and other purposes. Cost depletion in this sense is also recognized for tax purposes in connection with the treatment of liquidating dividends in the hands of the stockholders.[2]

For purposes of determining gain or loss upon sale or other disposition of a depletable property, the tax basis is reduced by the total amount of allowable depletion (percentage, discovery, or adjusted-basis depletion) in previous years.[3] While percentage depletion may continue even though more than 100 percent of the basis has been recovered tax free, the basis for determining gain or loss is reduced only to zero.

(d) *Expensing of capital costs*

In addition to depletion allowances, certain capital costs of developing mineral properties are treated as expenses incurred in doing business and allowed as deductions in the year incurred. This expensing treatment does not reduce allowable percentage depletion in future years, which is based on the income from the developed property. This results in a double deduction for recovery on the same capital investment.

Owners of oil or gas wells have wide opportunities for expensing capital costs incurred in developing their properties. At their option, they may treat intangible drilling and development costs of wells (including expenditures for labor, supplies, repairs, and hauling) as current expenses deductible from taxable income from any source. For example, 90 percent of an oil operator's capital outlay, exclusive of depreciable items, may be for intangible drilling and development costs. If this is deducted as a current expense, and thus recovered tax free at the outlet, only 10 percent of the investment remains to be recovered through depletion allowances. Hence, depletion allowances based on the entire income in effect overlap the initial deduction of a large portion of the capital outlays.

In the case of mines, development costs can be immediately offset against income only to the extent that there are receipts derived from the mine during the development period. However, if considerable quantities of ore are taken out while developing a mine to full producing status, it is possible for a taxpayer to recoup, tax free, immediately a large part of the capital costs of development.

II. BACKGROUND AND DEVELOPMENT OF SPECIAL DEPLETION ALLOWANCES

The original income-tax legislation provided a "reasonable allowance," not to exceed 5 percent of gross income, for wasting mineral assets. This was later changed to a more specific allowance of depletion based on cost, or 1913 value.

Allowances in excess of cost depletion were first granted in the term of discovery depletion in 1918 as a measure to stimulate mineral exploration for war purposes and to lessen tax burdens on small-scale prospectors who made discoveries after years of fruitless search. Discovery depletion deductions allowed the discoverer of any new mineral deposit to retrieve not only his costs but also the materially larger appreciated value of the

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[1] In addition to determining the minimum annual allowance, the adjusted-basis depletion is important in computing the net operating loss deduction. Under the present 2-year carryback and 2-year carryforward of net operating losses, the loss to be carried over is reduced by the excess of percentage over cost depletion (and similar tax-exempt items) in the year in which the loss occurs. Similarly, the amount of the loss which is deductible is reduced by the amount of such exempt income in the year to which the loss is carried.

[2] Under existing law dividends to stockholders are taxable to the extent they are paid out of earnings and profits. For this purpose, earnings and profits are computed on the basis of cost depletion.

[3] For years prior to 1932 the excess of percentage over cost depletion was not applied to reduce the tax basis.

property at the time its profitability was established. Since no limit was placed on the discovery depletion deduction, in many cases the deduction was in excess of the income from the discovered property and served to offset income from other sources. To prevent such excessive discovery depletion allowances, the annual deduction was limited in 1921 to 100 percent of the net income from the mineral property. In 1924, the limit was reduced to 50 percent of the net income from the property, in order to provide for the taxation of at least one-half of the income from these properties.

Percentage depletion was substituted for discovery depletion in the case of oil and gas properties in 1926 and extended to metals, sulfur, and coal in 1932. The original percentage-depletion rates, still embodied in present law, were in general fixed at levels which would permit the respective industries approximately the same total annual depletion they had previously enjoyed under discovery depletion.

Despite the recommendation of the Treasury in 1942 that percentage depletion be eliminated, it was extended in 1942 and 1943 as a temporary measure to certain nonmetallic minerals at the 15-percent rate applicable to metals. In 1947 the temporary wartime extensions were made permanent, and in addition some items not previously covered were granted the special allowance. Since 1947 a wide range of nonmetallic producers who have not been granted percentage depletion have sought similar preferential tax treatment.[4]

III. SURVEY OF DEPLETION AND RELATED ALLOWANCES

Information on percentage depletion and other special allowances for mineral producers has been recently developed through a special survey of 350 corporation income-tax returns. These returns accounted for about three-fourths of all corporation income-tax allowances for depletion for the year 1946 (table 1). Although the survey group does not necessarily represent a cross section of the mineral industries, the high proportion of tax allowances for depletion provides reliable information on the mineral-depletion provisions. The statistical data obtained in the course of this survey are presented in tables 1 to 10.

While the survey covers corporations only, it is estimated that corporations account for more than 80 percent and individuals for less than 20 percent of all depletion deductions.

(a) *Excess depletion and resulting revenue loss*

The allowable depletion deducted by the corporations included in this survey amounted to $555 million in 1946 and $839 million in 1947. Of these amounts only 10 to 15 percent represented adjusted-basis depletion which would have been required to recover original investment cost.[5] The remaining 85 to 90 percent constituted the excess allowance attributable to the special depletion provisions for mineral industries (table 2).

The indicated revenue loss for all corporations in the survey due to excess depletion was about $180 million in 1946 and $290 million in 1947 (table 3). On the basis of these findings it is estimated that the total revenue loss for all corporations due to excess depletion was nearly $250 million in 1946 and $400 million in 1947.

(b) *Distribution of excess depletion by industry groups*

The excess of percentage depletion over cost or basis depletion was correspondingly high for most industry groups. Relatively low excess depletion for a few industries, such as coal and the stone, clay, and glass group, reflects either a low-percentage depletion rate (5 percent for coal) or ineligibility or important components of the industry for percentage depletion.

A high proportion of the excess depletion shown in table 2 was received by corporations whose major activity was other than mining and quarrying. In 1946, for example, $345 million or more than 70 percent of the total excess was deducted by manufacturing enterprises (notably in the petroleum field) representing large integrated firms whose predominant industrial activity was not mineral extraction.

(c) *Distribution of special depletion and related allowances by mineral products*

Survey data for 1946 and 1947 showing the distribution of depletion allowances (including deductions for development costs) classified by the principal mineral products are presented in tables 4 and 5. As shown in these tables, the bulk of the benefit of percentage depletion in excess of basis depletion was derived by the oil and gas group. They received almost 85 percent of the excess depletion compared with 55 percent of the gross income for corporations included in the survey.

Total deductions for development costs by the selected corporations were $394 million in 1946 and $486 million in 1947. Comparison of the development-cost deductions with the excess of percentage over basis depletion for these 2 years indicates that for every $3 allowed as percentage depletion another $2 was deducted as development costs. In addition, substantial deductions were taken for exploration costs and losses on abandonment, amounting to $204 million in 1946 and $255 million in 1947.

Nearly all of the development-cost deductions were taken by oil and gas producers, and these producers also claimed most of the allowances for exploration and losses on abandonment.

Substantial variations are also shown by tables 4 and 5 in the relative tax benefits derived from special depletion allowances among different types of mineral producers, due in large part to disparities in the rates of percentage depletion. In 1947, for example, allowable depletion was about equivalent to basis depletion for nonmetallics not entitled to percentage depletion, about 3 times basis depletion for coal, 5 times basis depletion for metals, and 16 times basis depletion for oil. Sulfur producers were entitled to virtually no basis depletion, yet more than one-third of their aggregate net income was excluded from taxation through excess percentage depletion.

The relative importance of special depletion allowances for different type of mineral producers is presented in table 6. As shown in this table, all the corporations included in the survey had depletion deductions equal to about 40 percent of their net income before depletion in the years 1946–47. By contrast, the amount of basis depletion required to recover remaining cost ratably over the useful economic life was only 6 percent of net income in 1946 and 3.6 percent in 1947. Significant variations are shown among mineral products. Thus, depletion allowances in 1946 amounted to 49 percent of net income in the case of oil and gas compared with 1½ percent for nonmetallic products not entitled to percentage depletion, and 18 percent for all nonmetals.

(d) *Depletion allowances in relation to size of firm*

The distributions of various mineral-depletion allowances in dollar amounts and in relation to income, by size of firm, for 1946 and 1947, are shown in tables 7 and 8.

As shown in table 7, about three-fourths of the total depletion allowances and of the excess of percentage over basis depletion was received by very large corporations, with assets of at least $100 million. By contrast these firms received slightly less than two-thirds of the total gross income from mining.

The percentage of income excluded from taxation through depletion allowances tends to be greater for larger corporations (table 8). In 1947, for example, firms with assets of $100 million and over had depletion allowances of 20 percent of their gross and 38 percent of their net income, as against 9 percent of gross income and 34.5 percent of net income for corporations with assets between $100,000 and $1 million. The benefits of special depletion allowances, reflected in the ratio of allowable depletion to basis depletion, also tend to increase with the size of the firm. In 1947, for example, the allowable depletion of corporations with assets of $100 million and over was 13 times their basis depletion as compared with about 8 times for corporations with assets between $1 million and $10 million.

IV. ILLUSTRATIVE CASES SHOWING TAX EFFECTS OF SPECIAL ALLOWANCES

In connection with the survey of special depletion and related allowances, the effect of these provisions on the tax liabilities of particular taxpayers was studied.

Substantial reductions in income taxes were obtained by a number of individual oil and gas operators for the 5 years 1943 to 1947. In 10 illustrative cases, summarized in table 9, the effective rate of tax on net economic income (based on cost or basis depletion) varied from 63.5 percent to as low as six-tenths of 1 percent. This represents a striking difference between the effective rates of tax actually paid and the general statutory rates on such income, which ranged as high as 90 percent in these years.

During the 5-year period these 10 individual taxpayers received a total economic net income of $52.6 million from oil and gas properties. This net income was computed after all deductions for operating expenses, depreciation, basis depletion, exploration costs, and losses on unsuccessful ventures. These taxpayers also received a total of $9.3 million of net income from other sources. Of their aggregate net income from all sources, totaling $61.9 million, 77 percent was eliminated for tax purposes through the special deductions.

Similar information for 20 corporations taken from income tax returns for 1947 is shown in table 10.

(NOTE.—In the following tables figures are rounded and will not necessarily add to totals. Percentages were computed on the basis of unrounded figures.)

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[4] Within the past 3 years bills have been introduced in Congress to extend percentage depletion to amblygonite, oil shale, tripoli, marble, pumice, scoria, limestone, crushed stone, perlite, diatomaceous earth, granite, borax, calcium and magnesium carbonates, shell, sand, gravel, stone, and all other nonmetallic clays and minerals.

[5] In most cases the adjusted-basis depletion was approximately equal to cost depletion.

TABLE 1.—*Percentage of allowable mineral depletion included in survey of selected corporations, 1946*

[Money figures in millions]

Industry group [1]	Allowable depletion for all corporations [2]	Allowable depletion for selected corporations [2]	
		Amount	Percent of industry total
Mining and quarrying:			
Metal mining	$46.1	$35.1	76.0
Coal	51.0	17.6	34.4
Crude oil and natural gas	124.1	72.7	58.6
Nonmetallic mining	15.8	12.8	80.8
Mining not allocable	.3	.1	32.0
Total mining and quarrying	237.3	138.1	58.2
Manufacturing:			
Chemicals and allied products	$14.4	$9.7	67.1
Petroleum and coal products	388.0	350.6	90.3
Iron, steel, and products	21.0	17.3	82.3
Nonferrous metals and products	23.5	14.5	61.8
Stone, clay, and glass products	2.1	.1	7.1
Other manufacturing	3.3	0	0
Total manufacturing	452.4	392.2	86.7
Other groups	55.5	24.5	44.2
Total all groups	745.1	554.9	74.5

[1] The industry classification is the business activity reported on the tax return. When multiple businesses are reported, the classification is the business activity which accounts for the largest percentage of total receipts.

[2] Allowable depletion is the deduction permitted for income tax purposes, and is the larger of either adjusted-basis depletion or percentage depletion.

Source: Statistics of Income for 1946, pt. 2, preliminary, for all corporations; Bureau of Internal Revenue, Statistical Division, special tabulation, for the selected corporations.

TABLE 2.—*Mineral depletion allowances for selected corporations, by industry groups, 1946 and 1947*

[Money figures in millions]

Industry groups [1]	1946				1947			
	Number	Allowable depletion [2]	Excess over basis depletion [3]		Number	Allowable depletion [2]	Excess over basis depletion [3]	
			Amount	Percent of allowable depletion			Amount	Percent of allowable depletion
Mining and quarrying:								
Metal mining	68	$35.1	$28.7	82.0	66	$64.0	$54.9	85.9
Coal	53	17.6	10.5	59.9	52	21.6	14.9	69.2
Crude oil and natural gas	66	72.7	62.0	85.4	60	110.5	100.2	90.9
Nonmetallic mining	18	12.8	12.5	98.1	17	16.0	15.8	98.8
Mining not allocable	1	.1	[4]	5.0	1	.1	[4]	23.3
Total mining and quarrying	206	138.1	113.8	82.4	196	212.2	185.8	87.6
Manufacturing:								
Chemicals and allied products	14	9.7	7.3	75.5	14	11.7	9.4	80.3
Petroleum and coal products	45	350.6	321.9	91.8	44	538.7	509.0	94.4
Iron, steel and products	14	17.3	11.0	63.4	16	25.9	17.2	66.3
Nonferrous metals and products	8	14.5	5.1	34.8	8	17.5	10.4	59.4
Stone, clay, and glass products	5	.2	[4]	32.5	5	.2	.1	56.3
Total manufacturing	86	392.2	345.3	88.0	87	594.0	546.1	91.9
Other groups	60	24.5	20.8	84.9	61	32.6	28.0	86.0
Total all groups	352	554.9	479.9	86.5	344	838.7	759.9	90.6

[1] The industry classification is the business activity reported on the tax return. When multiple businesses are reported, the classification is the business activity which accounts for the largest percentage of total receipts.

[2] Allowable depletion is the deduction permitted for income tax purposes, and is the larger of either adjusted-basis depletion or percentage depletion.

[3] Basis depletion is the deduction necessary to recover the unamortized portion of the taxpayer's depletable property over its estimated remaining useful life. The unamortized portion, or adjusted basis, is reduced each year by the amount of allowable depletion.

[4] Less than $50,000.

Source: Bureau of Internal Revenue, Statistical Division, special tabulation.

TABLE 3.—*Computed revenue loss resulting from excess mineral depletion deductions, selected corporations, by industry groups, 1946 and 1947* [1]

[In millions]

Industry group [2]	1946 (352 returns)	1947 (344 returns)
Mining and quarrying:		
Metal mining	$10.9	$20.9
Coal	4.0	5.7
Crude oil and natural gas	23.6	38.1
Nonmetallic mining	4.8	6.0
Mining not allocable	[3]	[3]
Total mining and quarrying	43.3	70.6
Manufacturing:		
Chemicals and allied products	2.8	3.6
Manufacturing—Continued		
Petroleum and coal products	$122.3	$193.4
Iron, steel, and products	4.2	6.5
Nonferrous metals and products	1.9	3.9
Stone, clay, and glass products	[3]	[3]
Total manufacturing	131.2	207.5
Other groups	7.9	10.6
Total all groups	182.4	288.8

[1] Computed at the standard corporation rate of 38 percent.

[2] The industry classification is the business activity reported on the tax return. When multiple businesses are reported, the classification is the business activity which accounts for the largest percentage of total receipts.

[3] Less than $50,000.

TABLE 4.—*Mineral depletion and related allowances for selected corporations, by principal mineral products, 1946*

[Money figures in millions]

Principal mineral products	Number of corporations	Income subject to depletion		Depletion		Other capital recovery deductions	
		Gross [1]	Net [2]	Allowable [3]	Basis [4]	Development costs [5]	Exploration costs and losses on abandonment [6]
Metals:							
Iron	20	$335.0	$56.2	$18.9	$5.6	$6.1	$0.1
Copper	12	240.4	91.2	23.3	12.0	.6	1.0
Lead and zinc	22	68.9	21.0	10.5	2.5	5.0	.3
Gold and silver	14	47 1	16.0	6.1	.3	.9	.1
Other metals	8	37.8	7.2	3.3	(7)	.1	(7)
Metals not allocable	9	32.1	8.5	3.0	.3	(7)	.2
Total, metals	85	761.3	200.2	65.0	20.8	12.7	1.8
Coal:							
Anthracite	17	209.6	27.7	8.1	5.0	(7)	
Bituminous, lignite, etc	52	432.8	44.5	16.2	5.0	(7)	(7)
Total, coal	69	642.4	72.2	24.3	10.0	(7)	(7)
Oil and gas	163	1,837.6	904.2	447.1	41.9	381.2	161.3
Sulfur	8	66.2	34.5	12.3	(7)		20.7
Nonmetals:							
Entitled to percentage depletion [8]	19	90.4	20.0	5.9	2.0		.1
Not entitled to percentage depletion	8	56.1	13.4	.2	.2	0.3	20.0
Total nonmetals	27	146.6	33.3	6.2	2.2	.3	20.2
Grand total	352	3,454.1	1,244.4	554.9	74.9	394.2	204.0

[1] Gross income subject to depletion represents the amount for which the taxpayer sells, or could sell, in the immediate vicinity of the mine or well, the crude mineral output thereof.

[2] Net income subject to depletion represents the gross income subject to depletion less the allowable tax deductions attributable to the particular mineral property.

[3] Allowable depletion is the deduction permitted for income-tax purposes, and is the larger of either adjusted-basis depletion or percentage depletion.

[4] Basis depletion is the deduction necessary to recover the unamortized portion of the taxpayers' depletable property over its estimated remaining useful life. The unamortized portion, or adjusted basis, is reduced each year by the amount of allowable depletion.

[5] Development costs are expenditures for the preparation of mineral properties for production, which are deducted as expenses in the year incurred. Consequently, these expenditures are not included in the tax basis of the property and future cost or adjusted-basis depletion is correspondingly reduced. The treatment of development costs as a current expense, however, does not diminish percentage depletion in subsequent years, since the latter is determined on the basis of income in those years.

[6] Tax deductions for exploration costs represent expenditures which are made in the search for mineral deposits but which cannot be attributed to the capital costs of particular depletable properties. Abandonment losses represent tax deductions for recovery of capital invested in particular mineral properties which are abandoned before recovery of adjusted basis. Both exploration costs and abandonment losses represent tax deductions for capital recovery in addition to depletion deductions.

[7] Less than $50,000.

[8] The following nonmetallics are entitled to percentage depletion: Fluorspar, ball and sagger clay, rock asphalt, potash, flake graphite, vermiculite, beryl, feldspar, mica, talc, lepidolite, spodumene, barite, bauxite, china clay, phosphate rock, bentonite, trona, gilsonite, and thenardite.

Source: Bureau of Internal Revenue, Statistical Division, special tabulation.

TABLE 5.—*Mineral depletion and related allowances for selected corporations, by principal mineral products, 1947*

[Money figures in millions]

Principal mineral products	Number of corporations	Income subject to depletion		Depletion		Other capital recovery deductions	
		Gross [1]	Net [2]	Allowable [3]	Basis [4]	Development costs [5]	Exploration costs and losses on abandonment [6]
Metals:							
Iron	21	$310.8	$90.3	$26.7	$7.5	$7.2	$0.3
Copper	11	432.1	224.3	45.3	12.1	.9	.9
Lead and zinc	23	99.4	35.3	14.6	3.1	4.8	.1
Gold and silver	12	66.8	24.3	9.1	.2	1.1	1.6
Other metals	7	45.5	7.5	3.0	(7)	.1	(7)
Metals not allocable	12	54.6	17.6	5.5	.4	.1	.3
Total metals	86	1,009.2	399.2	104.2	23.3	14.3	3.2
Coal:							
Anthracite	16	211.6	18.3	7.5	4.7	(7)	
Bituminous, lignite, etc	55	612.5	87.2	25.4	6.2	.1	.3
Total coal	71	824.1	105.4	33.0	10.9	.1	.3
Oil and gas	153	$2,691.5	$1,544.9	$677.7	$42.6	$471.1	$199.9
Sulfur	8	80.3	43.8	14.9	(7)		25.8
Nonmetals:							
Entitled to percentage depletion [8]	17	68.7	20.2	8.7	1.8	(7)	.2
Not entitled to percentage depletion	9	102.2	53.4	.3	.3	.4	25.1
Total nonmetals	26	170.9	73.6	9.0	2.1	.4	25.4
Grand total	344	4,775.9	2,166.9	838.7	78.8	486.0	254.5

[1] Gross income subject to depletion represents the amount for which the taxpayer sells, or could sell, in the immediate vicinity of the mine or well, the crude mineral output thereof.

[2] Net income subject to depletion represents the gross income subject to depletion less the allowable tax deductions attributable to the particular mineral property.

[3] Allowable depletion is the deduction permitted for income tax purposes, and is the larger of either adjusted-basis depletion or percentage depletion.

[4] Basis depletion is the deduction necessary to recover the unamortized portion of the taxpayers' depletable property over its estimated remaining useful life. The unamortized portion, or adjusted basis, is reduced each year by the amount of allowable depletion.

[5] Development costs are expenditures for the preparation of mineral properties for production, which are deducted as expenses in the year incurred. Consequently, these expenditures are not included in the tax basis of the property and future cost or adjusted-basis depletion is correspondingly reduced. The treatment of development costs as a current expense, however, does not diminish percentage depletion in subsequent years, since the latter is determined on the basis of income in those years.

[6] Tax deductions for exploration costs represent expenditures which are made in the search for mineral deposits but which cannot be attributed to the capital costs of particular depletable properties. Abandonment losses represent tax deductions for recovery of capital invested in particular mineral properties which are abandoned before recovery of adjusted basis. Both exploration costs and abandonment losses represent tax deductions for capital recovery in addition to depletion deductions.

[7] Less than $50,000.

[8] The following nonmetallics are entitled to percentage depletion: Fluorspar, ball and sagger clay, rock asphalt, potash, flake graphite, vermiculite, beryl, feldspar, mica, talc, lepidolite, spodumene, barite, bauxite, china clay, phosphate rock, bentonite, trona, gilsonite, and thenardite.

Source: Bureau of Internal Revenue, Statistical Division, special tabulation.

TABLE 6.—*Allowable and basis depletion related to income, selected corporations, by principal mineral products, 1946 and 1947*

[Percent]

Principal mineral products	1946				1947			
	Percent of gross income		Percent of net income		Percent of gross income		Percent of net income	
	Allowable depletion [1]	Basis depletion [2]	Allowable depletion [1]	Basis depletion [2]	Allowable depletion [1]	Basis depletion [2]	Allowable depletion [1]	Basis depletion [2]
Metals:								
Iron	5.6	1.7	32.6	9.9	8.5	2.4	29.5	8.3
Copper	9.6	4.9	25.5	13.1	10.4	2.7	20.1	5.3
Lead and zinc	15.2	3.5	50.0	11.7	14.6	3.0	41.3	8.6
Gold and silver	12.8	.5	37.8	1.5	13.6	.3	37.4	.9
Other metals	8.6	[3]	44.3	.3	6.6	[3]	40.3	.1
Metals not allocable	9.4	.9	35.6	3.7	10.0	.7	31.0	2.2
Total metals	8.5	2.7	32.2	10.3	10.3	2.3	26.0	5.8
Coal:								
Anthracite	3.8	2.3	28.0	17.9	3.5	2.2	40.8	25.6
Bituminous, lignite, peat	3.7	1.1	35.5	11.0	4.1	1.0	28.7	6.9
Total coal	3.7	1.5	83.1	13.6	3.9	1.3	30.8	10.1
Oil and gas	24.3	2.2	49.3	4.6	25.1	1.5	43.8	2.7
Sulfur	18.6	[3]	35.7	[3]	18.5	[3]	33.9	[3]
Nonmetals:								
Entitled to percentage depletion [4]	6.5	2.2	29.7	10.1	12.6	2.6	43.0	8.9
Not entitled to percentage depletion	.3	.2	1.5	1.2	.3	.2	.6	.4
Total nonmetals	4.2	1.4	18.4	6.5	5.2	1.2	12.2	2.8
Grand total	16.0	2.1	44.4	6.0	17.5	1.0	38.6	3.6

[1] Allowable depletion is the deduction permitted for income tax purposes, and is the larger of either adjusted-basis depletion of percentage depletion.

[2] Basis depletion is the deduction necessary to recover the unamortized portion of the taxpayer's depletable property over its estimated remaining useful life. The unamortized portion, or adjusted basis, is reduced each year by the amount of allowable depletion.

[3] Less than 0.1 of 1 percent.

[4] The following nonmetallics are entitled to percentage depletion: fluorspar, ball and sagger clay, rock, asphalt, potash, flake graphite, vermiculite, beryl, feldspar, mica, talc, lepidolite, spodumene, barite, bauxite, china, clay, phosphate rock, bentonite, trona, gilsonite and thenardite.

Source: Bureau of Internal Revenue, Statistical Division, special tabulation.

TABLE 7.—*Mineral depletion and related allowances for selected corporations, by size of total assets, 1946 and 1947*

[Money figures in millions]

Total asset classes [1] (in thousands)	Number of corporations [1]	Income subject to depletion		Depletion		Other capital recovery deductions	
		Gross [2]	Net [3]	Allowable [4]	Basis [5]	Development costs [6]	Exploration costs and losses on abandonment [7]
1946							
$100 under $1,000	$20	$22.7	$5.3	$2.0	$0.1	$0.1	$0.1
$1,000 under $5,000	105	207.3	47.3	18.9	3.8	9.2	2.0
$5,000 under $10,000	46	135.4	47.7	18.9	3.4	5.3	2.3
$10,000 under $50,000	96	670.0	190.7	81.8	13.4	49.4	19.3
$50,000 under $100,000	17	283.1	88.6	35.9	8.7	15.7	8.9
$100,000 and over	64	2,129.3	861.3	395.7	45.4	313.2	171.2
Total	348	3,447.8	1,241.0	553.2	74.8	392.9	203.7
1947							
$100 under $1,000	$20	$25.8	$6.7	$2.3	$0.1	$0.1	([8])
$1,000 under $5,000	101	268.3	72.5	26.8	3.4	11.0	$1.8
$5,000 under $10,000	42	160.1	60.0	23.5	3.1	7.4	3.6
$10,000 under $50,000	97	870.2	301.7	118.4	14.4	59.0	25.8
$50,000 under $100,000	14	353.3	117.2	51.4	10.7	16.5	13.2
$100,000 and over	68	3,108.7	1,604.8	614.3	47.1	390.8	209.6
Total	342	4,768.6	2,162.9	836.8	78.8	484.8	254.1

[1] Total asset classes are based on the net amount of total assets after reserves for depreciation, depletion, amortization and bad debts, as of the close of the taxable year 1946. Only corporations with balance sheets are included. Consequently, the number of corporations differs slightly from that in the tabulations by industry groups and by principal mineral products.

[2] Gross income subject to depletion represents the amount for which the taxpayer sells, or could sell, in the immediate vicinity of the mine or well, the crude mineral output thereof.

[3] Net income subject to depletion represents the gross income subject to depletion less the allowable tax deductions attributable to the particular mineral property.

[4] Allowable depletion is the deduction permitted for income tax purposes, and is the larger of either adjusted-basis depletion or percentage depletion.

[5] Basis depletion is the deduction necessary to recover the unamortized portion of the taxpayers depletable property over its estimated remaining useful life. The unamortized portion, or adjusted basis, is reduced each year by the amount of allowable depletion.

[6] Development costs are expenditures for the preparation of mineral properties for production, which are deducted as expenses in the year incurred. Consequently, these expenditures are not included in the tax basis of the property, and future cost or adjusted-basis depletion is correspondingly reduced. The treatment of development costs as a current expense, however, does not diminish percentage depletion in subsequent years, since the latter is determined on the basis of income in those years.

[7] Tax deductions for exploration costs represent expenditures which are made in the search for mineral deposits but which cannot be attributed to the capital costs of particular depletable properties. Abandonment losses represent tax deductions for recovery of capital invested in particular mineral properties which are abandoned before recovery of adjusted basis. Both exploration costs and abandonment losses represent tax deductions for capital recovery in addition to depletion deductions.

[8] Less than $50,000.

Source: Bureau of Internal Revenue, Statistical Division, special tabulation.

TABLE 8.—*Allowable and basis depletion related to income, selected corporations, by size of total assets, 1946 and 1947*

Total asset classes [1] (in thousands)	Percent of gross income		Percent of net income	
	Allowable depletion [2]	Basis depletion [3]	Allowable depletion [2]	Basis depletion [3]
1946				
$100 under $1,000	8.9	0.4	38.2	1.7
$1,000 under $5,000	9.1	1.8	39.4	8.4
$5,000 under $10,000	13.9	2.5	39.7	7.1
$10,000 under $50,000	12.2	2.0	42.5	6.9
$50,000 under $100,000	12.6	3.0	40.4	9.7
$100,000 and over	18.5	2.1	45.8	5.2
Total	16.0	2.1	44.4	6.0
1947				
$100 under $1,000	9.0	0.3	34.5	1.0
$1,000 under $5,000	9.9	1.2	36.8	4.6
$5,000 under $10,000	14.6	1.9	39.1	5.1
$10,000 under $50,000	13.6	1.6	39.2	4.7
$50,000 under $100,000	15.3	3.1	43.8	9.1
$100,000 and over	19.7	1.5	38.2	2.9
Total	17.5	1.6	38.6	3.6

[1] Total asset classes are based on the net amount of total assets after reserves for depreciation, depletion, amortization and bad debts, as of the close of the taxable year 1946. Only corporations will balance sheets are included. Consequently, the number of corporations differs slightly from that in the tabulations by industry groups and by principal mineral products.

[2] Allowable depletion is the deduction permitted for income tax purposes, and is the larger of either adjusted-basis depletion of percentage depletion.

[3] Basis depletion is the deduction necessary to recover the unamortized portion of the taxpayers depletable property over its estimated remaining useful life. The unamortized portion, or adjusted basis, is reduced each year by the amount of allowable depletion.

Source: Bureau of Interna Revenue, Statistical Division, special tabulation.

TABLE 9.—*Income, deductions, and tax liabilities of 10 selected individual oil and gas operators, for the 5-year period, 1943–47*

[Money figures in millions]

Individual operator	New income			Special deduction		Taxable net income	Income tax liability	
	From oil and gas [1]	From other sources	Total	Percentage depletion [2]	Development costs [3]		Amount	Percent of total net income
A	$10.5	$3.8	$14.3	2.2	$13.0	[4]—$0.9	$0.08	0.6
B	5.0	.8	5.8	3.1	2.1	.6	.5	8.6
C	3.9	.5	4.4	3.2	4.4	[4]—3.2	.15	3.4
D [5]	9.3	.3	9.6	2.6	0	6.9	6.1	63.5
E	2.7	.8	3.5	1.0	.3	2.2	1.4	40.0
F	1.7	1.4	3.1	.8	1.5	.8	.6	19.4
G	$7.7	—$1.3	$6.4	3.5	$2.1	$0.8	$0.5	7.8
H	2.1	3.6	5.7	1.0	.6	4.1	2.2	38.6
I	1.7	.1	1.8	.5	1.0	.3	.2	11.1
J	8.0	—.7	7.3	2.9	1.7	2.7	2.2	30.1
Total	52.6	9.3	61.9	20.9	26.7	14.3	13.93	22.5

[1] Income after deductions for operating expenses, depreciation, adjusted-basis depletion, exploration costs and losses on abandonment.

[2] Excess of percentage depletion over adjusted-basis depletion.

[3] Development costs are expenditures for the preparation of mineral properties for production, which are deducted as expenses in the year incurred. Consequently, these expenditures are not included in the tax basis of the property and future cost of adjusted-basis depletion is correspondingly reduced. The treatment of development costs as a current expense, however, does not diminish percentage depletion in subsequent years, since the latter is determined on the basis of income in those years.

[4] While special deductions more than offset the total net income for the 5 years, some income tax was paid because there were deficits only in some years. A deficit caused by excess percentage depletion cannot be carried over against net taxable income of other years.

[5] Includes only 4 years, 1943–46.

Source: Bureau of Internal Revenue, special tabulation.

Mr. DOUGLAS. Mr. President, one might ask, "Do you not have more recent reports from the Secretary of the Treasury than that?"

The point is that no Secretary of the Treasury since then has had the courage to face the issue. I hope the Secretary will take it up next year.

Mr. President, in 1955, the Joint Economic Committee asked a number of tax experts to participate in its study of Federal tax policy for economic growth and stability. One of the finest papers which was presented to the committee was that by William F. Hellmuth, Jr., of Oberlin College, who wrote on the subject of the "Erosion of the Federal Corporation Income Tax Base." This paper appears on pages 888 to 917. I ask unanimous consent that a section of that paper, which appears on pages 897 to 903 and which deals with the percentage depletion question, be printed at this point in the RECORD.

There being no objection, the section of the paper was ordered to be printed in the RECORD, as follows:

DEPLETION

Present depletion deductions are probably the most glaring and most widely condemned source of erosion in the corporate income tax base. These deductions may also be the ones which have been most liberalized and extended over the past 15 years.

Corporations have been permitted a tax deduction for the exhaustion of oil and mineral resources since 1913. In economics and in our tax law, the principle is well established that the gradual exhaustion in use of a well or mineral deposit represents a cost of production for which deductions should be allowed in computing net income. Controversy exists as to timing and total amount of depletion deductions allowable.

On the basis of tax neutrality between different industries and economic activities, deductions from income over the life of a property would be limited to original cost, with annual tax-free recovery reflecting the portion of the total deposit which is extracted during the year. Using the business-income yardstick, there would be depletion deductions based on actual cost or in some cases no deductions at all for depletion.[1] Full recovery of actual cost under cost depletion would correspond to tax treatment of depreciation or amortization for other capital assets.

Existing legislation allows taxpayers owning an economic interest in mineral deposits the choice of a depletion deduction based on cost or percentage depletion. Percentage depletion gives an annual deduction equal to the smaller of a statutory percentage of gross income from mineral property or 50 percent of net income from the property before any allowance for depletion. Total tax-free deductions under percentage depletion are not limited or even necessarily related to capital cost. Annual percentage depletion deductions are related to production, prices, net income, and statutory percentages. There is no ceiling on the total amount of these deductions and over the life of a property they may total many times a taxpayer's actual investment costs. Thus percentage depletion deductions diverge from allowable deductions which conform either to tax neutrality or to business-income concepts and are an important element of erosion.

The dollar estimate of the excess of percentage over cost depletion is based on Treasury studies of those corporations which accounted for 75 to 80 percent of all depletion allowances claimed by corporations during 1946–49.

[1] Smith and Butters, op. cit., pp. 80–84. Some businesses make no deduction for depletion due to the difficulty of estimating the future life of a deposit accurately.

Year	Number of corporations	Allowable depletion	Adjusted basis depletion	Excess of allowable over basis		
				Amount	Percent of allowable	Percent of net income
1946	352	$555	$75	$480	86.5	38.4
1947	344	839	79	760	90.6	35.0
1948	260	1,291	77	1,214	94.0	36.3
1949	260	1,120	61	1,059	94.6	40.1
Total		3,805	292	3,513		
Weighted average					92.3	

NOTE.—See also an interpretation of the 1946–47 data by D. H. Eldridge, Tax Incentives for Mineral Enterprise, Journal of Political Economy, June 1950, pp. 222–240.

Sources: 1946 and 1957 data from Revenues Revision of 1950, hearings before the Committee on Ways and Means, House, 81st Cong., 2d sess., vol I, pp. 194, 197; 1948 and 1949 data from E. E. Oakes, Incentives for Mineral Industries, the President's Materials Policy Commission, Resources for Freedom, vol. 5, pp. 14–15. Admittedly adjusted-basis depletion is not identical to cost depletion but is based on cost less allowable depletion (larger of percentage or cost depletion) in prior years.

This table indicates that total allowable depletion deductions were at least 10 times depletion deductions based on cost. As legislation in 1951 and 1954 further liberalized percentages depletion and extended the opportunity to expense (currently or deferred) exploration and development costs so they never are charged to a depletion basis, allowable depletion may now be nearer 20 times cost depletion. These figures conceal a wide variation between individual products. Percentage depletion deduction as a multiple of cost depletion during 1946–49 varied from a high of over 200 for sulfur to 19 for oil and gas down to about 3½ for copper and coal. Note that oil and gas accounted for more than 80 percent of all depletion deductions:

Allowable depletion compared with adjusted basis depletion for certain products, 1946–49 combined

[In millions]

	Allowable depletion	Adjusted-basis depletion	Allowable as multiple of adjusted basis	Product percent of total allowable
All products	$3,805	$292	3.7	100.0
Oil and gas	3,143	167	18.9	82.8
Sulfur	60	(1)	(1)	1.6
Coal	136	38	3.5	3.6
Copper	182	49	3.7	4.8

[1] Allowable depletion for sulfur was less than $300,000 for all 4 years combined. Individual years' totals were too small to be reported in tables. Thus allowable depletion for sulfur was at least 200 times the amount of adjusted-basis depletion and possibly much more.

Source: Computed from Treasury depletion studies of several hundred large companies for 1946–49, op. cit.

The most recent Statistics of Income indicate corporate depletion deductions of $2,126 million for 1952. Corporate depletion in 1955 might amount to $2,500 million, assuming increased dollar volume and another $100 million for the liberalization of depletion by the 1954 code. Ninety percent of this total gives $2,250 million as the conservatively estimated amount of corporate income excluded from taxable income due to overgenerous percentage depletion.[2]

Erosion of the tax base due to depletion has been rapid in recent years and perhaps has now come to a position of equilibrium, at a position of great liberality, with percentage depletion now available to every

[2] Since corporations account roughly for 80 percent of all depletion, an additional $500 to $600 million of depletion erosion would be estimated for the 1955 individual income-tax base. Revenue Revision of 1950, hearings before the Committee on Ways and Means, House, 81st Cong., 2d sess., vol. I, p. 180.

metallic and nonmetallic mineral from anorthosite to zinc, including even oystershells and peat. Under section 613(b) of the 1954 code, only soil, sod, dirt, turf, water, and mosses, or minerals from sea water, the air, or similar inexhaustible sources are not eligible for percentage depletion.

But this hope—that there will be no further erosion from depletion—is probably too optimistic. Industries entitled to a low rate of percentage depletion are continually pressing for higher rates; passthrough of depletion deduction opportunities to corporate stockholders in extractive industries has been requested. A Federal circuit court recently held that the value of finished brick could be used in the income measure for percentage depletion.[3] If this view prevails for brick, other industries will push for equal treatment, possibly even to the value of gasoline for a vertically integrated oil company.

The statutory history of depletion is a superb example of at least three types of tax changes which erode the corporate tax base.

The initial break from cost depletion came in 1918 when Congress allowed, to the discoverer only, tax-free deductions based on value of property at the time of the discovery or within 30 days thereafter. This was probably the first instance under the Federal income tax where increment of value after 1913 was not taxed. Usually, of course, discovery of oil or minerals increases the value of a property substantially over cost. This higher value was justified as an incentive to exploration and discovery to meet the World War I emergency. A comparable situation arose during World War II when percentage depletion, restricted until then to oil and gas (1926), and sulfur, metal mines, and coal (1932), was extended in 1942 to 3 nonmetals and in 1943 to 10 additional nonmetalic minerals. This expansion of percentage depletion was limited to the period of the war emergency to encourage production of minerals believed to be scarce for meeting the wartime demands. After both wars, these incentive features first introduced to meet temporary emergencies were not rescinded nor allowed to expire, but instead remained permanently in the tax structure. The first generalization is that temporary tax incentives are difficult or impossible to terminate.

A second observation from experience with depletion is that simplification of tax administration is often advanced at the expense of revenue or equity or both. To overcome administrative difficulties from the use of discovery value,[4] percentage depletion was allowed in 1926 for oil and gas wells. A figure of 27½ percent of gross income was chosen, apparently to give approximately equal dollar deductions under the new method as had been available under the discovery value method. But this percentage method became more valuable as tax rates rose far above the 1926 corporate rate of 13.5 percent and as price levels increased, causing a high revenue cost to the Treasury and arousing the envy of other industries still restricted to cost or discovery value depletion. And the percentage depletion method, as noted above, unlike the cost and discovery value methods, has no overall limit so that deductions continue as long as a property is producing income.

A third lesson is that it is difficult to limit tax favors to just those who discover a new oil or mineral deposit or even to a few selected entire industries, however justified this special incentive is on grounds of relative risks or probable scarcity relative to needs for economic growth and national security. The other extractive industries regarded the availability of percentage depletion at liberal rates to a few industries as unfair discrimination and a tax deduction to which they were equally entitled. Politically the have-nots broke the dikes against percentage depletion in 1947, 1951, and again in 1954. Coverage was extended, percentage rates were raised, processes covered were broadened, and even mine residues were made eligible for percentage depletion. Apparent discrimination against certain industries was ended by extending the liberal deductions to all.[5] Companies exploiting sand and gravel pits and oystershells now qualify for percentage depletion along with oil companies and uranium prospectors, though at different rates.

The incentive value of percentage depletion for certain scarce minerals has been blunted by extending the favors to all. One problem is that there are no yardsticks to indicate the incentives needed to get the socially desired amount of investment in different fields. Congress has no guide to determine which industries are entitled to percentage depletion and what depletion rates produce the needed amount and distribution of investment in the extractive industries.[6]

The economic defense of generous percentage depletion results from national policy to provide an incentive or subsidy for certain selected minerals for reasons of national security. But on grounds of tax neutrality, tax equity, and conformity to business income accounting practice, the excess of percentage over cost depletion reflects erosion in the income-tax base. In fact from the standpoint of accounting or economics, it is questionable whether these deductions are properly called depletion since they do not relate to any capital sum which is being exhausted. In some cases the income against which the statutory percentages apply includes not only extraction but also processes which are essentially manufacturing in character, such as finished brick or industrial talc.

The excess of percentage over cost-depletion deductions reduces corporate taxable net income by about $2¼ billion in 1955 and this figure, under existing legislation, will tend to increase with an expanding economy.

EXPLORATION AND DEVELOPMENT COSTS

Exploration and development costs are closely allied with the problem of depletion for mineral and oil producers. Current tax legislation allows these producers the option of capitalizing or expensing development and, with qualifications, exploration costs.

Oil and gas producers have enjoyed this option since 1917, first by Treasury regulation, now codified by the 1954 Internal Revenue Code. Intangible drilling and development costs include all costs of labor, fuel, repairs, materials, and construction, except cost of assets which have a salvage value, the latter assets being depreciated. The development costs eligible for expensing account on the average for about 75 percent of the costs incurred in bringing in a well.[7]

The Revenue Act of 1951 extended this option even more fully to mining. A taxpayer with mining interests may now decide each year for each mine to expense or capitalize development costs. Mine exploration and development costs can be deducted currently or set up as deferred expense to run over the life of ore benefited. In either case a deduction in lieu of cost depletion is given, but percentage-depletion deductions continue undiminished. Before 1951 all development costs in excess of current net income from a property during the development stage had to be capitalized.

This option to expense what are essentially capital costs is another loss to the tax base. Tax neutrality and conformity to business accounting would require that these costs be capitalized and amortized over the life of the assets or, if the assets cannot be moved, over the life of the mineral deposit, if it will be exhausted before the assets are fully depreciated.

The erosion here is twofold. First, the option to expense development costs allows deductions to be taken sooner than if these costs were capitalized and deducted gradually over a period of years. This means that total deductions to any given date are larger than if these costs were spread over several years. Secondly, expensing of development costs combined with percentage depletion allows double deductions for the same costs. To the extent that development costs are expensed, there is no need for depletion to recover investment. If 75 percent of the cost of an oil well is expensed, only the remaining 25 percent remains to be recovered tax free through cost depletion. But with percentage depletion, the annual and total deductions bear no direct relation to capital costs but depend on gross and net income. The dollar amount of deductions under percentage depletion is not influenced by the election to capitalize or expense.

Thus, with the expensing of development costs, percentage depletion becomes more than ever an additional deduction which must be justified on grounds other than recovery of costs for these are recovered through expensing. Leasehold costs cannot be expensed but they are usually in the form of royalty payments. Development costs may be offset against income from all sources, a feature which has attracted corporations (and individuals) primarily interested in other industries to finance new oil wells, thus reducing or even eliminating their taxable income while building up their capital assets.[8]

The Treasury study for 1946–47 cited above reported that 96.8 percent of all corporate development costs were claimed by oil and gas producers and that these deductions were about two-thirds of the excess of percentage over cost depletion. Applied to 1955, this suggests about $1.5 billion of costs which are expense in addition to being recovered through percentage depletion. Without percentage depletion, to avoid any erosion these costs would still not be expense but would be capitalized and deducted gradually over the life of the assets or the life of the well, whichever is shorter; from this point of view erosion would be at least $1.1 billion a year at first, declining gradually as annual depreciation charges accumulate for all such property in use.

The great value of these tax-saving features to the oil industry is documented by published 1954 annual reports. The fol-

[3] *Cherokee Brick & Tile Co.* (122 Fed. Supp. 59 (5 C.C.A., 1954)).

[4] Such questions as what was a new discovery, determination of value just after the discovery, and whether the owner was the discoverer plagued tax administrators.

[5] No reduction in depletion rates has ever been voted by Congress. In 1954 every amendment extending percentage depletion was passed in the Senate. It was impossible even to get the necessary 10 Senators to request a record rollcall on any of these votes. See CONGRESSIONAL RECORD, vol. 100, pt. 7, pp. 9301–9319.

[6] The President's Materials Policy Commission, op. cit., vol. I, pp. 33–35. The Commission recommended that percentage depletion be retained because of its strong inducement to risk capital to enter the minerals field. It also recommended that no depletion rates be raised above the 1952 level and that recent additions to minerals eligible for percentage depletion be reexamined to see if incentives are needed for their production.

[7] Oakes, op. cit., p. 17.

[8] J. K. Butters, L. E. Thompson, L. L. Bollinger, Effects of Taxation: Investments by individuals, pp. 201–202 (1953). Some investors regard investments in the oil industry as a source of tax-exempt income, competitive with State and municipal securities.

lowing table compares the tax position of 3 companies which specialize in crude oil production, 24 large oil companies combined (whose annual reports were available), and all corporations. Note that the effective tax-rate increases from 9.2 percent for Tidewater, to 22.6 percent for 24-company aggregate, to 48.1 percent for all corporations.

Federal taxes and effective tax rates for oil companies and all corporations, 1954

	Net income before tax	Federal income tax	Effective tax rate	Per share	
				Earnings before tax	Federal income tax
	Millions	*Millions*	*Percent*		
Tidewater Associated Oil Co.	$38.0	$3.5	9.2	$3.45	$0.32
Humble Oil & Refining Co.	174.8	28.5	16.3	4.86	.79
Skelly Oil Co.	36.1	6.7	18.5	6.28	1.16
24 large petroleum companies	2,541.0	575.0	22.6		
All corporations	34,042.0	16,369.0	48.1		

Source: Annual reports; Department of Commerce estimate of corporate profits and Federal tax liability.

Since the Revenue Act of 1951, mining companies may expense a limited amount of exploration costs, even if for a productive property. The limit on such costs of a mining taxpayer was raised to $100,000 a year and $400,000 total by the 1954 code. The cost here is relatively small, although taxpayers are increasing their tax saving by incorporating each mine separately. Exploratory expenses above these limits by mining corporations must be capitalized. Only exploratory expenses which lead to dry holes may be expensed currently by the oil and gas industry. This conforms to neutrality and accounting concepts.

Mr. DOUGLAS. Mr. President, among the other points Mr. Hellmuth makes is that in 1954, one major oil company paid taxes at an effective rate of 9.2 percent, another at 16.3 percent, and still another at 18.5 percent. He shows further that 24 large petroleum companies paid taxes at an effective rate of only 22.6 percent.

TAX RATES OF SPECIFIC COMPANIES

Mr. President, I, myself, have been collecting some facts and figures on the taxes paid by oil and gas producing companies. I have collected figures for these 27 companies since 1945; and I have figures which show the amount of income tax they have paid compared with the net income before taxes. We all know that since World War II the taxes of most corporations have been in the neighborhood of 47 percent to 52 percent. However, oil and gas companies have paid taxes at a considerably lower rate than one would believe they should pay, and what other corporations actually do pay.

I am calling these companies company A, company B, company C, and so forth. They have done nothing illegal, and I do not wish to condemn them. I merely wish to condemn the principle of percentage depletion. In the Biblical phrase, I am not condemning the sinner, but the sin. Perhaps, technically speaking, what they have done is not a sin at all. They are merely taking what the law and Congress permit them to take. Thus I have no reason to go after any individual company. I know them. I know who they are. I have collected these figures. If anyone doubts the authenticity of my figures, I can supply him with the code which identifies the companies. I would not like to do so unless challenged by a fellow Senator. However, these figures are public information, and they can be obtained from Moody's Manual and other manuals on corporate earnings. I wish to illustrate the effects of the great many legal tax avoidance provisions of the code with respect to the taxes which these companies actually pay.

Let us consider the company identified as company W. From 1953 to 1958, a 6-year period, that company made $65 million in profits, and paid on net no taxes whatever. In that same period, it received a net refund of $425,000. I repeat that figure. In the 6-year period from 1952 to 1958 it made $65 million in profits and paid on net no taxes whatever, and actually got $425,000 in net refunds from the Federal Treasury. If I am challenged on the name of that company, I can give it. It is well known to Members of the Senate.

There are 26 other cases. Let me cite some of the others. Take company Y, for example. In 1958 it had profits of $6,231,000 and paid no taxes.

Company I. In 1957 it made more than $9 million in profits, and paid no taxes. In fact it received over $5,000 in tax credits. How nice. Let us take the figure for 1958. It made $7 million in profits, and not only paid no taxes but received $23,352 in tax credits. That is a zero rate of tax.

Take company N. This is a good one. In 1958 it made $5,378,973, and paid no taxes.

Company O. In 1957, it made a profit of $1,573,165. No taxes were paid by the company. In 1956, it made $1,034,094 in profits. No taxes were paid. In other years it received very generous allowances when it paid only 2.49 percent in taxes in one year; in another year, 2.6 percent; in another year 2.96 percent, and in still another year 1.11 percent. That was when other corporations were paying 52 percent, and the average person 20 percent on the first $2,000 of net taxable income.

One of the better companies is company G. In 1957, it made a profit of $1,167,000, and paid $115,000 in taxes. That is 9 percent. Ordinary companies pay 52 percent. In 1956 it had profits of $560,000, and paid no taxes. It paid no taxes in 1955, though it had $832,000 in profits. It paid no taxes in 1954, although it had $785,000 in profits. It paid no taxes in 1953, although it had $730,000 in profits.

I could cite company after company. I can only say that this situation is a scandal and a disgrace. It is also a scandal and a disgrace that these groups are so powerful in Congress that they cannot be touched.

Mr. President, I ask unanimous consent to have tabulations in that connection printed at this point in the RECORD.

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

Company A

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$22,485,135	[1]	$22,485,135	
1957	35,208,979	$5,260,000	29,948,979	14.94
1956	29,523,395	3,024,000	26,499,395	10.24
1955	28,143,673	2,780,000	25,363,673	9.88
1954	21,029,684	1,252,000	19,777,648	5.95
1953	18,812,590	367,000	18,445,590	1.95
1952	16,550,361	654,000	15,896,361	3.95
1951	17,369,652	1,073,000	16,296,652	6.17
1950	18,467,607	3,068,000	15,399,607	16.61
1949	14,759,193	375,000	14,384,193	2.54
1948	27,367,252	4,725,000	22,642,252	17.27
1947	17,749,626	2,830,000	14,919,626	15.94
1946	10,130,975	1,275,000	8,855,975	12.59
1945	5,611,770	215,000	5,396,770	3.83

[1] Not available.

Company B

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$4,371,094	$525,000	$3,846,094	12.01
1957	5,392,505	150,000	5,242,505	2.78
1956	6,975,382	1,095,000	5,880,382	15.70
1955	5,975,382	485,000	4,965,220	9.90
1954	3,291,733	38,172	3,253,561	1.16
1953	5,594,074	1,552,500	4,441,574	27.75
1952	4,436,030	669,500	3,766,530	15.09
1951	5,561,779	714,880	4,846,890	12.85
1950	5,709,537	1,023,900	4,685,637	17.93
1949	3,259,928	163,040	3,096,888	5.00
1948	6,295,858	898,900	5,396,958	14.28
1947	4,011,073	1,023,126	2,987,947	25.51
1946	2,089,932	417,000	1,672,932	19.95
1945	2,321,605	205,908	2,115,697	8.87

Company C

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$5,402,894	$481,413	$4,921,481	8.91
1957	5,561,652	640,635	4,921,017	11.52
1956	4,770,495	261,837	4,508,658	5.49
1955	4,826,687	417,388	4,409,299	8.65
1954	4,625,759	336,889	4,288,870	7.28
1953	4,391,404	179,114	4,212,290	4.08
1952	3,588,107	91,660	3,496,447	2.55
1951	3,934,107	399,397	3,534,710	10.15
1950	3,696,584	847,072	2,849,412	22.91
1949	3,373,448	679,553	2,693,895	20.14
1948	4,542,842	982,540	3,560,302	21.63
1947	2,284,109	529,781	1,754,328	23.19
1946	161,816	212	161,604	.13
1945	33,895	256	33,639	.76

Company D

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$156,130	[1] $13,000	$169,130	0
1957	271,515	5,000	266,515	1.84
1956	472,556	35,000	437,556	7.41
1955	549,093	15,000	534,093	2.73
1954	309,405		309,405	
1953	303,453	11,332	292,121	3.73
1952	159,084	25,686	133,398	16.15
1951	415,948	8,234	407,714	1.98
1950	277,514	1,500	276,014	.54
1949	177,187	1,000	176,187	.56
1948	526,061	35,000	491,061	6.65
1947	399,643	52,000	347,643	13.01
1946	139,923	1,000	138,923	.71
1945	140,101	1,500	138,601	1.07

[1] Credit.

Company E

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$8,108,706	$800,000	$7,308,706	9.87
1957	11,303,747	1,600,000	9,703,747	14.15
1956	11,379,241	1,900,000	9,479,241	16.69
1955	8,509,136	1,500,000	7,009,136	17.63
1954	5,320,750	----------	5,320,750	----------
1953	6,420,968	1,048,000	5,372,968	16.32
1952	5,601,723	1,400,000	4,201,723	24.50
1951	5,866,052	2,000,000	3,866,052	34.09
1950	4,951,476	1,500,000	3,451,476	30.29
1949	4,928,459	1,020,000	3,908,459	20.70
1948	5,766,543	960,000	4,806,543	16.65
1947	3,650,374	600,000	3,050,374	16.44
1946	3,248,813	200,000	3,048,813	6.16

Company F

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$54,865,371	$7,400,000	$47,465,371	13.49
1957	51,273,749	4,550,000	46,723,749	8.87
1956	67,517,000	15,700,000	51,817,000	23.25
1955	56,259,000	9,900,000	46,359,000	17.60
1954	50,383,000	8,700,000	41,683,000	17.27
1953	55,775,000	14,900,000	40,875,000	26.71
1952	52,488,000	14,400,000	38,088,000	27.43
1951	58,593,000	17,300,000	41,293,000	29.53
1950	57,407,000	15,000,000	42,407,000	26.13
1949	46,487,000	10,390,000	36,097,000	22.35
1948	74,080,000	19,863,000	54,217,000	26.81
1947	40,655,000	9,298,000	31,357,000	22.87
1946	22,599,000	3,585,000	19,014,000	15.86
1945	16,371,700	1,228,000	15,143,000	7.50

Company G

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$804,716	$50,000	$754,716	6.21
1957	1,167,546	115,000	1,052,546	9.85
1956	560,753	----------	560,753	----------
1955	832,765	----------	832,765	----------
1954	785,624	----------	785,624	----------
1953	730,699	----------	730,699	----------
1952	968,287	69,022	899,265	7.13
1951	935,134	137,220	797,914	14.67
1950	892,552	147,275	745,277	16.50
1949	969,991	204,860	765,131	21.12
1948	872,719	150,367	722,352	17.23
1947	654,922	160,452	494,470	24.45
1946	471,923	135,664	336,259	28.75
1945	461,448	180,808	280,640	39.18

Company H

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$1,760,794	0	$1,760,794	0
1957	2,176,226	$160,000	2,016,226	7.35
1956	2,647,058	93,000	2,554,058	3.51
1955	1,994,072	86,000	1,908,072	4.31
1954	2,276,415	238,329	2,038,086	10.47
1953	1,899,343	156,039	1,743,304	8.22
1952	1,998,758	370,291	1,628,467	18.53
1951	1,992,234	411,166	1,581,068	20.64
1950	1,270,271	72,843	1,197,428	5.73

NOTE.—Records available only for last 9 years.

Company I

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958 [1]	$7,076,455	[2] $23,352	$7,099,807	0
1957 [1]	9,079,022	[2] 5,860	9,084,882	0
1957	9,078,922	[2] 5,860	9,084,882	([3])
1956	8,886,172	151,000	8,735,172	1.69
1955	8,106,746	429,075	7,677,671	5.29
1954	6,769,145	196,335	6,572,810	2.90
1953	5,414,053	26,156	5,387,897	.48
1952	5,067,243	410,539	4,656,704	8.10
1951	4,477,673	404	4,477,269	.01
1950	3,456,001	202,087	3,253,914	5.85
1949	2,949,585	72,628	2,876,957	2.46
1948	2,774,079	201,176	2,572,903	7.25
1947	3,172,001	504,487	2,667,514	15.90
1946	755,220	258,488	496,732	34.23
1945	102,860	65,966	368,946	64.13

[1] 12 months ended June 30.
[2] Credit.
[3] Credit taxes.

NOTE.—In total analysis 1956 equals 1957 on this company, etc.

Company J

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$2,950,700	$90,000	$2,860,700	3.05
1957	3,154,900	20,000	3,134,900	.62
1956	3,168,549	75,000	3,093,549	2.37
1955	3,656,274	150,000	3,506,274	4.10
1954	3,570,162	360,000	3,210,162	10.08
1953	3,363,964	500,000	2,863,964	14.86
1952	2,561,162	267,461	2,293,701	10.44
1951	3,971,370	965,230	3,006,140	24.30
1950	2,302,729	519,263	1,783,466	22.55
1949	1,551,586	104,000	1,447,586	6.70
1948	1,344,021	150,000	1,194,021	11.16
1947	1,230,364	50,000	730,364	4.06
1946	409,171	----------	409,171	----------
1945	328,260	----------	328,260	----------

Company K

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$14,145,331	$2,300,000	$11,845,331	16.23
1957	17,938,378	3,400,000	14,538,378	18.95
1956	16,316,268	2,500,000	13,816,268	15.32
1955	15,599,264	1,900,000	13,699,264	12.18
1954	11,541,464	1,278,154	10,263,310	10.01
1953	11,762,519	1,590,080	10,172,439	13.52
1952	9,218,224	1,875,000	7,343,224	20.34
1951	10,327,002	2,400,000	7,927,002	23.24
1950	8,723,484	2,000,000	6,723,484	22.93
1949	8,716,231	1,800,000	6,916,231	20.65
1948	17,245,547	4,000,000	13,245,547	23.19
1947	9,301,386	2,300,000	7,001,386	24.73
1946	5,321,560	1,010,000	4,311,560	18.98
1945	4,235,097	257,000	3,978,097	6.07

Company L—Liquidated Apr. 11, 1957

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1954	$7,762,785	$1,275,000	$6,487,785	16.42
1953	8,494,844	1,785,000	6,709,844	21.01
1952	7,844,057	1,500,000	6,344,057	19.12
1951	8,553,640	1,500,000	7,053,640	17.54
1950	8,086,702	1,983,000	6,103,702	24.52
1949	7,805,345	1,900,000	5,905,345	24.34
1948	7,512,733	1,726,006	5,786,727	22.97
1947	7,667,536	1,575,000	6,092,536	20.54
1946	5,146,094	1,100,009	4,046,094	21.38
1945	3,209,359	831,500	2,377,859	25.91
1944	3,519,208	1,068,760	2,450,448	30.37

Company M

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$152,543,223	$16,000,000	$136,543,223	10.49
1957	192,910,393	17,000,000	175,910,393	8.81
1956	212,961,000	34,000,000	178,961,000	15.97
1955	215,997,000	41,000,000	174,997,000	18.98
1954	174,803,000	28,500,000	146,303,000	16.30
1953	207,757,854	43,500,000	164,257,854	20.94
1952	175,792,000	30,500,000	145,292,000	14.68
1951	220,981,000	51,500,000	169,481,000	23.30
1950	161,360,000	32,000,000	129,360,000	19.83
1949	138,480,000	18,000,000	120,480,000	13.00
1948	240,069,000	54,000,000	186,069,000	22.49
1947	153,207,000	29,100,000	124,107,000	18.99
1946	79,332,000	7,500,000	71,832,000	9.45
1945	80,395,000	9,500,000	70,895,000	11.82

Company N

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$5,378,973	0	$5,378,973	0
1957 [1]	7,972,558	$1,727,910	6,244,648	21.67
1956	5,378,994	699,000	4,679,994	13.00
1955	2,502,867	18,000	2,484,867	.72
1954	1,603,682	23,923	1,579,759	1.49
1953	3,077,447	4,724	3,072,723	.15
1952	2,334,532	99,844	2,234,688	4.28
1951	1,209,045	31,250	1,177,795	2.58
1950	282,202	49,750	232,452	17.63
1949	1,225,576	6,949	1,218,627	.57
1948	1,395,517	29,053	1,366,464	2.08
1947	359,903	15,000	344,903	4.17
1946	[2] 106,098	200	[2] 106,298	--------
1945	1,537,551	406,500	1,131,051	26.44

[1] 12 months ended June 30.
[2] Deficit.

NOTE.—In totals analysis, 1956=1957 on this company, etc.

Company O

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	([1])	([1])	([1])	--------
1957	$1,573,165	----------	$1,573,165	--------
1956	1,034,094	([2])	1,034,094	--------
1955	1,006,718	([2])	1,006,718	--------
1954	1,690,567	$42,130	1,648,437	2.49
1953	1,873,226	50,000	1,823,226	2.67
1952	1,502,077	40,000	1,462,077	2.66
1951	2,714,277	30,000	2,684,227	1.11
1950	2,692,947	40,000	2,652,947	1.49
1949	3,382,140	42,323	3,382,140	1.25
1948	4,236,057	348,900	3,887,157	8.24
1947	1,517,480	48,919	1,468,561	3.22
1946 [3]	689,609	10,241	679,368	1.52
1945 [3]	664,526	4,103	660,423	.62
1954 [3]	2,205,837	42,130	2,163,707	1.91
1953 [3]	2,600,271	50,000	2,550,271	1.92
1952 [3]	2,202,835	40,000	2,162,835	1.81
1951 [3]	2,623,191	30,000	2,593,191	1.14
1950 [3]	3,744,852	40,000	3,704,852	1.01
1949 [3]	4,158,672	42,322	4,116,350	1.00
1948 [3]	4,353,435	348,900	4,004,535	8.01

[1] Not available.
[2] Not reported.
[3] Figures for 1954–48 restated as result of revision of estimates of recoverable oil and gas reserves.

NOTE.—Company O felt not liable for Federal income tax in this period.

Company P

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$6,135,363	$470,000	$5,765,363	7.66
1957	6,611,110	660,000	5,951,110	9.98
1956	6,277,997	478,000	5,799,997	7.61
1955	6,211,916	470,000	5,741,916	7.56
1954	6,209,385	470,000	5,739,385	7.57
1953	6,761,834	515,000	6,246,834	7.62
1952	7,023,582	540,000	6,483,582	7.69
1951	7,008,444	535,000	6,473,444	7.63
1950	6,616,103	415,000	6,201,103	6.27
1949	4,940,029	270,000	4,670,029	5.47
1948	5,679,055	333,000	5,346,055	5.86
1947	2,827,824	159,000	2,668,824	5.62
1946	2,532,718	151,000	2,381,718	5.96
1945	2,522,301	157,075	2,365,226	6.23

Company Q

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$16,344,274	$3,271,000	$12,873,274	20.26
1957	19,137,735	4,500,000	14,637,735	23.51
1956	10,590,947	2,703,000	7,887,947	25.52
1955	13,034,071	1,852,000	11,182,071	14.21
1954	14,484,813	1,967,000	12,517,813	13.58
1953	12,815,586	1,143,000	11,672,586	8.92
1952	9,570,934	602,000	8,968,934	6.29
1951	8,190,680	385,000	7,805,680	4.70
1950	6,263,638	400,000	5,863,638	6.39
1949	5,183,830	210,000	4,973,830	4.05
1948	7,713,057	407,623	7,305,434	5.28
1947	3,896,936	85,000	3,811,936	2.02
1946	1,614,888	65,000	1,549,888	4.02
1945	997,075	40,000	957,075	4.01

Company R

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$3,620,312	[1] $968,000	$4,588,312	
1957	6,908,969	882,000	6,026,969	12.77
1956	10,595,588	2,640,000	7,955,588	24.92
1955	8,052,718	1,164,559	6,888,159	14.46
1954	8,395,561	1,636,500	6,759,061	19.49
1953	11,536,428	3,477,350	8,059,078	30.14
1952	13,532,095	3,884,000	9,648,095	28.70
1951	14,940,795	4,645,000	10,295,795	30.11
1950	10,850,226	2,351,801	8,498,425	21.68
1949	6,470,610	299,023	6,171,587	4.62
1948	8,229,656	1,635,000	6,594,656	19.87
1947	4,773,864	576,444	4,197,420	12.07
1946	2,475,239	370,000	2,105,239	14.95
1945	1,983,259	252,500	1,730,759	10.27

[1] Credit.

Company S

Year [1]	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958 [1]	$3,337,324	[2] $236,642	$3,100,682	7.09
1957 [1]	4,712,841	330,000	4,382,841	7.00
1957	4,712,841	330,000	4,382,841	7.02
1956	4,060,798	260,000	3,800,798	6.40
1955	4,284,521	220,000	4,064,521	5.13
1954	5,241,179	43,000	5,198,179	.82
1953	5,525,948	583,000	4,942,948	10.55
1952	5,618,762	1,425,000	4,193,762	25.36
1951	5,280,578	964,000	4,316,578	18.26
1950	2,944,322	191,000	2,753,322	6.49
1949	4,736,153	342,000	4,394,153	7.22
1948	4,213,001	266,000	3,947,001	6.31
1947	3,200,034	160,000	3,040,034	4.99
1946	1,809,404	30,000	1,779,404	1.66

[1] 12 months ended June 30.
[2] Includes credit of $171,642 prior years' tax adjustment.

NOTE.—In total analysis 1956=1957 for his company, etc.

Company T

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$1,011,165	[1] $235,320	$1,246,485	0
1957	701,822	0	701,822	0
1956	949,659	138,000	811,659	14.53
1955	1,385,335	185,000	1,200,335	13.35
1954	542,208	2,500	539,708	4.61
1953	408,107		408,107	
1952	431,569		431,569	
1951	273,473		273,473	
1950	183,116	5,000	178,116	2.73
1949	[1] 6,000		[1] 6,000	

[1] Credit.

Company U

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	(1)	(1)	(1)	
1957	$11,719,324	$560,482	$11,158,842	4.78
1956	9,568,842	200,000	9,368,842	2.09
1955 [2]	9,340,810	900,000	8,440,810	9.64
1954	7,805,307	335,000	7,470,307	4.29
1953	7,140,132	600,000	6,540,132	8.40
1952	7,715,591	1,000,000	6,715,591	12.96
1951	10,239,600	2,900,000	7,396,000	28.32
1950	7,659,000	1,200,000	6,459,000	15.67
1949	6,656,347	875,000	5,781,347	13.15
1948	9,030,713	2,250,000	6,780,713	24.91
1947	7,191,002	1,250,000	5,941,002	17.38
1946	3,400,586	400,000	3,000,586	11.76

[1] Not available.
[2] Restated to conform with accounting practice effective Jan. 1, 1956—method of charging intangible development costs was changed. 1956 net income would have been $1,470,000 less without such change.

Company V, liquidated

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1954	$4,173,767		$4,173,767	
1953	3,951,367	$350,000	3,601,367	8.86
1952	4,414,623	660,000	3,754,623	14.95
1951	3,112,871		3,112,871	
1950	1,904,836	526,000	1,378,836	27.61
1949	[1] 592,448	7,500	584,948	1.26
1948	461,640	2,400	459,240	.52
1947	416,506	4,100	512,406	.98
1946	328,052	11,282	316,770	3.44
1946 [2]	176,841	5,250	171,591	2.97
1945 [2]	298,539	6,127	287,412	2.00

[1] Before $653,408 loss on wells abandoned.
[2] 12 months ended Apr. 30. In 1946, the company changed to a calendar year basis, so 1946 taxes are shown both ways.

Company W

Year [1]	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958 [1]	$16,726,337	[2] $175,000	$16,551,337	1.05
1957 [1]	18,877,389	0	18,877,389	0
1957	18,877,389		18,877,389	
1956	5,040,752		[3] 5,040,752	
1956 [4]	(5)		(5)	
1955	3,395,446		3,395,446	
1954	10,260,388	[6] 100,000	10,360,388	(7)
1953	11,500,382	[6] 500,000	12,000,382	(7)
1952	12,100,165	200,000	11,900,165	1.65
1951	15,195,639	1,900,000	13,295,639	12.03
1950	7,128,542	200,000	6,928,542	2.81
1949	7,483,443	200,000	7,283,443	2.67
1948	17,917,474	3,000,000	14,917,474	16.74
1947	5,266,897	400,000	4,866,897	7.59
1946	1,844,156		1,844,156	
1945	5,422,254	450,000	4,972,254	8.29

[1] 12 months ended Aug. 31.
[2] Foreign income taxes.
[3] Same for both consolidated and company only.
[4] Consolidated.
[5] Same
[6] Credit.
[7] Credit taxes.

NOTE.—In total analysis, 1956=1957 on this company, etc.

Company X

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$4,642,978	$670,023	$3,972,955	14.43
1957	7,670,654	840,709	6,829,945	10.96
1956	6,057,708	400,000	5,657,708	6.60
1955	6,720,029	400,000	6,320,029	5.95
1954	5,245,527		5,245,527	
1953	4,470,659	240,000	4,230,659	5.37
1952	3,635,498	450,000	3,185,498	12.38
1951	3,702,765	550,000	3,152,765	14.85
1950	3,770,706	696,200	3,047,506	18.46
1949	4,022,266	640,907	3,381,359	15.93
1948	4,731,952	901,906	3,830,046	19.06
1947	2,940,750	597,621	2,343,129	20.32
1946	1,394,512	163,973	1,230,539	11.75
1945	666,557		666,557	

Company Y

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$6,231,481	0	$6,231,481	0
1957	7,802,218	$570,000	7,232,218	7.31
1956	7,859,694	650,000	7,209,694	8.27
1955	8,449,374	500,000	7,949,374	5.92
1954	8,256,034	400,000	7,856,034	4.85
1953	8,874,068	1,275,000	7,599,068	14.37
1952	8,101,335	1,255,000	6,846,335	15.49
1951	8,009,124	1,185,000	6,824,124	14.79
1950	7,047,367	1,050,000	5,997,367	14.89
1949	7,048,753	710,000	6,338,753	10.07
1948	9,186,038	1,725,000	7,461,038	18.78
1947	4,883,907	760,000	4,123,907	15.56
1946	2,428,249	315,000	2,113,249	12.97
1945	1,934,850	175,000	1,759,850	9.04

Company Z

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$2,065,816	0	$2,065,816	0
1957	2,215,290	0	[1] 2,215,290	0
1956 [2]	746,447		746,447	
1956 [3]	1,602,988		1,602,988	
1955	1,262,177		1,262,177	
1954	1,720,086		1,720,086	
1953	1,508,988		1,058,988	
1952	1,547,048		1,547,048	
1951	703,747		703,747	
1950	151,488		151,488	
1949	154,707		154,707	
1948	134,881		134,881	

[1] Adjusted.
[2] 7 months ending Dec. 31.
[3] In totals analysis, May 31 ending years used.

NOTE.—Years end May 31 prior to 1957.

Company A–Z

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	$909,982	0	$909,982	0
1957	891,025	0	891,025	0
1956	783,082		783,082	
1955	981,994		981,994	
1954	647,516		647,516	
1953	1,008,416	$80,000	928,416	7.93
1952	768,664		768,664	
1951	1,143,004	283,000	860,004	24.76
1950	969,156	264,774	704,382	27.32
1949	394,227		394,227	
1948	874,306	173,000	701,306	19.79
1947	655,289	73,000	582,289	11.14
1946	227,789		227,789	
1945	322,232		332,232	

Company B–Z

Year	Net income before income taxes	Income taxes	Net income after income taxes	Percent of income taxes to income before taxes
1958	[1] $31,647,420	[2] $4,074,902	$33,825,276	
1957	35,009,503	[2] 1,827,610	35,669,759	

[1] State and foreign income taxes included.
[2] Credit.

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

Mr. DOUGLAS. I yield.

Mr. LAUSCHE. Mr. President, I concur in what the Senator has said. What extenuating argument can the companies give to these devastating figures, when it is pointed out that if it were a corporation other than an oil company, the taxes would have been much higher, whereas the taxes paid by the oil companies are practically nothing?

Mr. DOUGLAS. The Senator from Ohio has been in the Senate ever since 1957. He has heard the defense made of the depletion allowance from time to time, that it is necessary to develop exploration, that the oil industry is a great industry in the economy of Oklahoma and Texas and Kansas and other States that are dependent upon it, and so forth.

Mr. LAUSCHE. The fact is that these profits are fixed and they will continue to be fixed into the future each year that follows, except for an economic breakdown, and they still will be paying practically no taxes, while other corporations will be paying 52 percent in taxes.

Mr. DOUGLAS. The Senator is correct. It is one of the great scandals of our tax system.

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

Mr. DOUGLAS. I yield for a question.

Mr. PROXMIRE. The Senator has put into the RECORD a series of very impressive statistics, showing that many big firms in the oil industry pay no taxes year after year, or very small taxes, and in most instances cited by the Senator they paid far less than 10 percent in taxes.

I invite the attention of Senators to the fact that to my certain knowledge one of the biggest oil companies, within the past year has made more than $50 million in profits. What did it pay in taxes? Nothing. It received a $750,000 refund from the Government.

This is not something that has happened years ago. It is happening today. It will happen next year. The Government will continue to lose this money. Is not the economic basis for all this the fact that the percentage depletion permits someone who has invested in an oil property to get far more of a tax writeoff than the cost of the oil property? He can write off more than the cost of the oil property. One study made by the Truman administration, showed that on the average these companies are able to write off their investment not once, not twice, not 10 times, but 19 times. They write it off over and over and over again.

Mr. DOUGLAS. That has occurred.

Mr. PROXMIRE. What the Senator from Illinois is doing is not to provide that they can write it off once or twice, but that, as I calculated on the basis of studies that have been made before, on the average they can write it off about 10 times instead of the 19 times that is now average. So what the Senator has proposed in a very modest restraint on the profit, after taxes, of the huge oil companies.

Mr. DOUGLAS. I am continually astounded at my own moderation. I say to the oil industry that the blind and powerful opposition which they have given to even this modest improvement may stir up against them a justifiable indignation which ultimately will sweep away the whole system of depletion.

Mr. PROXMIRE. Is it not true that one of the reasons why this enormous value of oil depletion has developed has nothing to do with the intent of Congress when it passed the law, because at the time in 1926, when the depletion allowance went into the law, the corporation income tax was about 13 percent?

Mr. DOUGLAS. The value of the allowance then amounted to 7 percent.

Mr. PROXMIRE. So now with the corporation income tax at 52 percent, the value of the depletion allowance is approximately four times as great; and the amendment of the Senator from Illinois would simply reduce the depletion value for the big companies to, roughly, 60 percent of what it is at the present time.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. Once again, the amendment of the Senator from Illinois is modest, because it would not return the value of the depletion allowance to what it was initially, when the law was passed in 1926; it would go only halfway toward that objective.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. The Senator from Illinois pointed out that the economic effect of the depletion allowance has been not only to give some wealthy persons and some big corporations a tremendous tax advantage, but also to provide for overinvestment—a heavy overinvestment—and a misallocation of America's economic resources.

Mr. DOUGLAS. Yes; this is something which is not commonly understood.

Mr. PROXMIRE. And it is perhaps one of the most important economic effects.

Mr. DOUGLAS. It is one of the most important economic effects.

Mr. PROXMIRE. Is it not true, however, that oil companies are able to maintain high profits or increased profits at the expense of the consumer by operating on the basis of restraining their production, so that at the present time in Texas the oilfields pump only 8 or 10 days a month? In other words, they operate far, far below capacity, and some oil firms that are successful in maintaining a tax advantage are also successful in imposing quotas on the importation of oil.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. So the American consumer gets virtually no benefit whatsoever from the enormous tax advantage.

Mr. DOUGLAS. And the question might very well be asked: If the great Texas field is producing during only 8 or 10 days a month, is it wise to drill additional wells under those circumstances?

Mr. PROXMIRE. That is exactly what the present depletion allowance encourages.

Mr. DOUGLAS. Yes. The Senator's questions are extremely good.

Mr. PROXMIRE. Is it not true that in the bill the oil companies or oil industry gets another tax advantage which seems extremely hard to justify, in that gas pipelines receive a special treatment not given to other utilities, namely, a 7-percent investment credit, as contrasted with the 3-percent investment credit permitted all other utilities?

Mr. DOUGLAS. That is correct. The Senator from Wisconsin a few days ago made a great fight against that; but the steamroller went over him, and the 7-percent investment credit for the gas pipelines was retained. This is one of the many injustices contained in the bill.

Mr. PROXMIRE. So rather than having the effect in this tax reform—and this is supposed to be a tax reform bill—of cutting back on the excessive privileges which this most profitable industry in America now enjoys, the bill aggravates and enhances the unjustifiable and unjustified profits advantages which the gas and oil industry already enjoys.

Mr. DOUGLAS. The bill opens more loopholes than it closes.

Mr. President, one of the really major loopholes in the tax code is the method by which capital gains may be applied to oil and gas properties. Because this subject is little understood, I have again asked that a memorandum be prepared concerning it. I ask unanimous consent that the memorandum, entitled "Application of Capital Gains Treatment to Income From Oil and Gas Properties," be printed at this point in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

APPLICATION OF CAPITAL GAINS TREATMENT TO INCOME FROM OIL AND GAS PROPERTIES

A taxpayer owning rights in an oil and gas property may sell a fractional share in these rights and claim capital gains treatment with respect to the excess of the proceeds from the sale over his adjusted basis in the fractional share sold. The character of the fractional share as a capital asset within the meaning of section 1221 of the Internal Revenue Code of 1954 is not and has not been seriously questioned. The distinguishing characteristic of such fractional shares is that the original owner permanently divests himself of all interests therein, i.e., no provision is made for a return of the rights to him after a specified period of time, or after a specified volume of production or number of dollars of royalties realized with respect to the fractional share.

On the other hand, for some considerable time past there has been considerable confusion about the tax treatment of "carved out" oil payments. These differ from assignment or sale of fractional shares in that the taxpayer does not permanently relinquish rights to income in the oil and gas property but merely assigns or sells some portion thereof for a limited period of time. For example, he may sell the next 2 years' production, or the next 100,000 barrels, or the

next $1 million worth of output. Upon satisfaction of these conditions, the rights revert to the taxpayer. Numerous court decisions, at variance with Treasury rulings, maintained that the proceeds from such sales should be treated as capital gains.

Quite recently, however, the U.S. Supreme Court in the Lake case, ruled that proceeds from sale or exchange of carved-out oil payments were to be construed as realization of future income and therefore subject to ordinary income-tax treatment. The Treasury Department apparently feels that the Supreme Court ruling is sufficiently broad and sufficiently definite as to preclude further dispute about the tax treatment of carved-out oil payments. However, the ingenuity of the American taxpayer must never be underestimated.

Mr. PROXMIRE. Mr. President, it is my understanding, on the basis of estimates by the Committee on Unessential Expenditures that the concession to the gas industry, made in the bill, under the investment credit provision, will be worth more than $51 million to them, in addition to the other advantages which they already have.

Mr. DOUGLAS. I think that is a conservative estimate.

Mr. MORSE. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

Mr. MORSE. I always find it very educational to listen to the Senator from Illinois, and to a great seminar when I listen to a colloquy between the Senator from Illinois and the Senator from Wisconsin [Mr. PROXMIRE]. I have enjoyed the educational aspect in regard to the shocking injustice to the American people, symbolized by the bill.

Could the Senator from Illinois cite to me to any article in the Democratic platform of 1960 which would justify the bill?

Mr. DOUGLAS. No.

Mr. MORSE. Does the Senator from Illinois think the Senator from Oregon would be mistaken in his point of view if he expressed the opinion that the bill cannot be reconciled with the Democratic platform of 1960?

Mr. DOUGLAS. I do not believe it can be reconciled. It is my intention to vote against the bill in its present form.

Mr. MORSE. Is it not true that the Democratic Party in its platform in 1960 sought to hold out some hope to the people of the country to pass a tax reform bill which deserved the name?

Mr. DOUGLAS. That promise was held out to the American people.

Mr. MORSE. The other day, in announcing my opposition to the bill, I characterized the bill as one which could best be described as a bill for tax dodgers. Does the Senator from Illinois believe that that was an unfair description of the bill, from the account which the Senator is now giving to the Senate as to how the bill increases the ducking and dodging ability of the oil industry to escape more taxes than it otherwise has been able to escape?

Mr. DOUGLAS. I should prefer to say that the bill is an unbalanced bill. It gives rewards to the wealthy and the powerful and denies protection to the average American.

So far as the oil industry is concerned, except for the gas pipelines, it is true that the bill does not make things any worse than they are now; but it does not make any improvement.

Mr. MORSE. A few minutes ago the Senator from Illinois said he was surprised at his own moderation. I think the statement he has just made is one of his great understatements, because I still am of the opinion that the description of the bill as stated by the Senator from Oregon is a much more accurate one than the modest understatement of the Senator from Illinois.

Mr. DOUGLAS. I expect to join with the Senator from Oregon in voting against the bill. I appreciate the services which he has given.

Mr. President, in addition, I ask unanimous consent to have printed at this point in the RECORD a paper entitled "Writeoffs, Cost Depletion, and Percentage Depletion—An Appraisal," written by Paul Haber, doctor of jurisprudence and doctor of philosophy.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

WRITEOFFS, COST DEPLETION, AND PERCENTAGE DEPLETION—AN APPRAISAL

(By Paul Haber, J.D., Ph. D.)

INTRODUCTION

Our Federal tax system is supposed to be based on the principle of progressive taxation or "ability to pay"—the higher the net income, the higher the rate of tax. In the case of taxpayers who engage in the business of crude oil, however, this principle is made to work in reverse—the higher the net income from the production and sale of crude oil, the lower the rate of tax.

There seems to be considerable misconception as to the true value of the tax subsidy to crude oil. It is generally assumed that it consists of "percentage depletion" only, which is supposed to be worth about $1.5 billion a year. Those who are acquainted with the subject know that the "writeoffs" subsidy is worth at least $7 billion more. Nobody, however, seems to be aware of the fact that "cost depletion" also represents a subsidy to crude oil. Because this last subsidy is concealed in a provision of the code which on the surface seems to have nothing to do with depletion, it seems to have escaped everybody's attention. It is the "sleeper" subsidy and it is costing the country at least $5 billion a year.

WHO ENTERS THE CRUDE OIL BUSINESS?

Consider the tax situation of individuals in the following groups:

1. The stockholders who own large blocks of stock in the corporations listed on the various stock exchanges, who receive fabulous incomes from dividends;

2. The active heads of these listed corporations, who receive substantial salaries for their services and dividends on any stock they may own in the corporation;

3. The professional advisers for these corporations, who receive large fees for their services;

4. The movie stars and other independent professional men who earn large salaries and fees;

5. The more than 150,000 partners, stockholders, and sole proprietors, who own the thousands of medium-size businesses in this country, who derive substantial income from dividends, salaries, interest, or profits.

The more than 200,000 individuals who comprise these five groups derive incomes anywhere from $100,000 to $25 million a year, are subject to taxes in the very top brackets. Would it be reasonable to assume that if these people are smart enough to earn such large incomes, they are naive enough to pay it out in taxes? Especially, when the tax laws applicable to crude oil offer them a safe and sure way out by transforming the "progressive tax rates" into "regressive tax rates," so that instead of paying out 90 percent of their incomes in taxes and keeping 10 percent they are able to keep 90 percent and pay out 10 percent?

THE WRITEOFFS SUBSIDY

Mr. Smith, whose income is $1 million a year, decides to avail himself of the tax subsidies to crude oil instead of paying a 90-percent tax on the income. He spends his income buying fractional interests in a large number of pools or joint ventures which engage in the search for oil. In this manner, he spreads the risk over a large number of drilling operations, one or more of which are bound to find oil.

The million dollars thus spent by Mr. Smith is costing him $100,000, because the tax laws permit him to write off the cost of the search for oil, irrespective of whether the search results in a dry hole, a commercial producer, or a gusher. Only a small fraction of the cost of the search must be capitalized, less than 12 percent, when the well finds any oil at all. Thus, as far as the costs of the search are concerned, the odds are 9 to 1 in favor of Mr. Smith, because Mr. Smith is drilling for oil with money which would otherwise have gone to pay the income tax on the million-dollar income. These 9 to 1 odds in favor of Mr. Smith more than make up for the risk of not finding oil. In actual practice, because the risk is spread over a great many drilling operations, the overall odds in favor of Mr. Smith are 20 to 1 that he will come out a happier man drilling for oil than he would be paying income taxes. When a taxpayer enters the crude oil business, he forgets about income taxes; there simply are not any to pay, as we shall see below.

The best evidence as to Mr. Smith's probabilities of becoming a happy and prosperous oilman can be attested by the more than 55,000 wells which are being drilled each year in this country, at an average cost of $150,000 per well, or a total cost of $2,250 million a year. We are drilling in this country six times as many wells as the rest of the world does; even though our oil reserves are less than one-sixth the world's reserves (our 30 billion barrels to the world's 200 billion barrels).

Drilling for oil is like playing dice with the Treasury: "Heads I win, tails you lose," with the Treasury always on the losing end. As a matter of fact, high tax rates are a boon to the crude oil industry rather than a burden, because the higher the rate of tax the lower the net cost (the after-tax cost) of the drilling operation. This explains why the American Petroleum Institute does not support the National Association of Manufacturers in its fight to reduce the top tax bracket from 90 percent to 40 percent. If the rate were reduced to 40 percent, the search for crude oil would fall off tremendously, because the taxpayer's share of the cost of the search would have been increased from 10 percent (100 percent less 90 percent tax) to 60 percent (100 percent less 40 percent tax). As a matter of fact, the phenomenal growth of the crude oil industry dates back to the year 1940, the year in which the wartime rates were first brought into the statute.

It is evident from the above that taxwise it is far more profitable when the drilling operation is done by a taxpayer (as an individual) who is in the 90 percent tax bracket than by a corporation which is subject to the 52 percent tax bracket. That is why at least 40,000 wells a year, out of the total of 55,000, are drilled by individual taxpayers and only 15,000 are drilled by the major oil companies. On this altogether plausible assumption, the value of the

"writeoffs" subsidy is $6,557 million, computed as follows:

90 percent of 40,000 wells multiplied by $150,000	$5,400,000,000
52 percent of 15,000 wells multipled by $150,000	1,157,000,000
Total value of tax subsidy	6,557,000,000

THE "COST DEPLETION" SUBSIDY

Having gotten rid of his original income in the search for oil, the taxpayer's next problem is to get rid of the income from the oil property after an oil discovery. Since the taxpayer has no cost basis in the oil property (having previously written off the cost of the search through "writeoffs") the taxpayer cannot compute the deduction for depletion on the basis of full discovery value of the property. His deduction for depletion is limited to "percentage depletion" (27½ percent of the gross income from the property, not to exceed 50 percent of the net income from such property). This, however, would leave him with a substantial amount of income from oil, subject to ordinary income tax rates. To relieve him of such excess income the code contains a "sleeper" provision which makes it possible for him to convert the income from the oil property into capital gain without his giving up ownership in the property.

During the hearings conducted by the Senate Committee on Economic Growth ("Federal Tax Policy for Economic Growth," 84th Cong., 1st sess., Joint Committee on the Economic Report), neither Prof. Horace M. Gray nor Prof. Arnold C. Harberger, nor Prof. James R. Nelson—who argued against the depletion subsidy—were aware of the "sleeper" provision in the code. Messrs. Henry B. Fernald, Lowell Stanley, and Arthur A. Smith, who argued in favor of depletion, were, of course, careful to keep the "sleeper" provision well hidden under cover.

The "sleeper" provision

Section 1239 of the 1954 code, which corresponds to section 117(o) of the 1939 code, provides as follows:

"(a) In the case of a sale or exchange, directly or indirectly, of property described in subsection (b)—

"1. Between a husband and wife; or

"2. Between an individual and a corporation more than 80 percent in value of the outstanding stock of which is owned by such individual, his spouse, and his minor children and minor grandchildren; any gain recognized to the transferor from the sale or exchange of such property shall be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

"(b) This section shall apply only in the case of a sale or exchange by a transferor of property which in the hands of the transferee is property of a character which is subject to the allowance for depreciation."

In simple English, this section states that when property which is subject to depreciation, such as real estate, patents, etc., is sold to a spouse or to a corporation controlled by the transferor (and/or the transferor's spouse, minor children, and minor grandchildren), the gain realized on the sale is ordinary income not capital gain. The same rule applies when the sale is from one corporation to another corporation, if the selling corporation owns 80 percent or more of the stock of the buying corporation. The purpose of this provision in the code is to prevent fictitious sales, for the sole purpose of establishing a higher depreciation basis in the hands of the "related" transferee by the payment of a capital-gains tax on the part of the transferor.

Section 1239, however, does not apply to property which is subject to depletion, as distinguished from property which is subject to depreciation. Consequently, a taxpayer (whether an individual or a corporation) who has no cost basis in an oil property (such costs having been previously written off from the taxpayer's income) is not limited to the deduction of 27½ percent of the gross income from the property (percentage depletion). The income from the property can be made fully deductible through "cost depletion" by the sample device of a "sale" of the property for its full discovery value to one's spouse or to one's "controlled" corporation. The 25-percent capital-gains tax incurred on the transaction is then reported on the installment basis, spread over the life of the oil property. In this way the income from the oil property automatically is limited to a maximum tax rate of 25 percent, payable as, when, and if the oil is produced.

The value to the crude oil industry of this loophole in the law is approximately $5 billion a year. Since the value of all the oil minerals produced in this country each year is $8 billion (see "Facts and Figures for 1956," p. 149, published by the American Petroleum Institute), the depletion, if it were computed on the "percentage depletion" basis would have amounted to $2.2 billion (27½ percent of $8 billion). Computed on a "cost depletion" basis, the depletion is automatically increased from $2.2 billion to $8 billion, at a tax savings of some $5 billion.

PERCENTAGE DEPLETION

This subsidy, which has been assumed generally to be the principal villain in our tax laws, is by comparison with the last two subsidies a small handout. Its principal purpose is to scoop up the tax leftovers to which the taxpayers in the crude oil business may unexpectedly be exposed to. Thus, if the property should be found to contain oil after the deductions have been taken under the "cost depletion" methods, "percentage depletion" steps in to absorb the excess income with which the taxpayer is inconvenienced. "Percentage depletion" may be said to act as a sort of basket for any leftover income, left after the "cost depletion" subsidy has been fully availed of.

The value of "percentage depletion" subsidy to the crude oil industry is comparatively small, less than half a billion a year, as compared with a total of some $12 billion from the "writeoffs" and "cost depletion" subsidies. This being the case, why does the crude oil industry so bitterly resist any cut in the 27½-percent rate?

Is it because by resisting a cut in the very smallest subsidy the people's attention remains focused on "percentage depletion" as the apparent villain and is thus diverted from the real villains—"writeoffs" and "cost depletion"—which are worth at least 25 times as much? There is no other explanation.

THE GROWTH OF THE INDUSTRY

As would be expected, an industry which is the beneficiary of three tax subsidies aggregating close to $13 billion a year would grow fast and big. The crude oil industry has grown very fast and very big. The shares of the listed oil companies are worth more than $50 billion, or more than the combined value of all the listed shares of the steel, chemical, and automobile industries. This does not include the value of the tens of thousands of unlisted companies, the stock of which is held by the hundreds of thousands of spouses, minor children, and minor grandchildren of the top bracket taxpayers engaged in the crude oil business. And to think that less than 20 years ago the crude oil industry was a small industry by comparison with either steel, chemicals, or automobiles.

The rate of the crude oil industry's growth may be better appreciated when the stock splitups of a few of the major oil companies are taken into consideration. Humble Oil Co., the second largest subsidiary of Standard Oil of New Jersey, has split its stock 5 times since 1922; 4 shares for 1 in 1922; 3 shares for 1 in 1933 (a depression year); 2 shares for 1 in 1943; 2 shares for 1 in 1951; 2 shares for 1 in 1957. Thus, each share of the 1922 vintage stock is today 96 shares, and this does not take into account the many stock dividends voted by the company from time to time. The stock is selling for approximately 100 times its earnings after taxes. What makes this stock so valuable? When 90 percent of a corporation's true income (concealed in the writeoffs and cost depletion) is exempt from income taxes and only 10 percent is subject to tax, a stock is bound to sell for 100 times the amount of earnings. In reality, however, the value of the stock reflects the fact that 90 percent of the company's true earnings are exempt from tax.

Standard Oil Co. of California split its stock twice in recent years: 2 for 1 in 1951 and 2 for 1 in 1956. The same is true of Texas Co. Standard of New Jersey had 2 recent splitups: 2 for 1 in 1951 and 3 for 1 in 1956. The latter company now has more than 200 million shares outstanding, selling around $50, or a total of more than $10 billion.

It may be interesting to observe that after each stock splitup the price of the postsplit stock soon catches up with the price of the presplit stock. Apparently you cannot keep a crude oil stock down. When a stock remains unsplit, as in the case of Superior Oil Co. of California, its price zooms to fantastic heights. This stock has recently been selling at $1,800 per share, even though its earnings are about $10 a share. Thus, the stock is selling at 180 times its net earnings. For the 5-year period from 1952 to 1956, the company wrote off on the average $36 million a year; its net income before depletion was $9 million a year, on the average; the average amount of income tax paid by it was $40,000 a year. Even a religious organization could not ask for more.

The Oil Record, published by the Petroleum Institute Projects, lists several hundred oil companies, giving their financial operations for the 5-year period from 1952 to 1956. These results, of 25 companies selected at random, are reproduced in the table below. To appreciate the significance of the figures in the table, it is suggested that they be examined carefully, reading each line across rather than down.

Name of company	Writeoffs	Net income	Income tax paid
Union Oil & Gas Co. of Louisiana	$7,000,000	$3,000,000	$30,000
Superior Oil Co. of California	36,000,000	9,000,000	40,000
Texas Pacific Coal & Oil Co	6,000,000	7,500,000	800,000
Franco Wyoming Oil Co	1,650,000	1,500,000	160,000
Kewanee Oil Co	7,000,000	2,000,000	75,000
Crown Central Petroleum Co	1,700,000	1,750,000	500,000
General Crude Oil Co	6,000,000	3,500,000	200,000
Bishop Oil Co	600,000	350,000	18,000
Humble Oil Co	130,000,000	160,000,000	33,000,000
Tidewater Oil Co	35,000,000	35,000,000	4,000,000
Sunray Mid-Continent Oil Co	44,000,000	42,000,000	16,000,000
Phillips Petroleum Co	90,000,000	85,000,000	22,000,000
Reserve Oil & Gas Co	850,000	700,000	100,000
Skelly Oil Co	30,000,000	30,000,000	10,000,000
Eason Oil Co	700,000	600,000	45,000
Kerr-McGee Oil Industries	7,500,000	3,500,000	350,000
Anderson-Pritchard Oil Co	7,750,000	4,750,000	500,000
Argo Oil Co	2,750,000	4,000,000	225,000
Drilling & Exploration Co	2,900,000	750,000	22,000
Petroleum Exploration	500,000	750,000	80,000
Getty Oil Co	5,000,000	10,000,000	1,500,000
Aztec Oil & Gas Co	650,000	600,000	----------
Weststates Petroleum Co	575,000	150,000	30,000

Is it any wonder that the growth in the ranks of oil millionaires keeps pace with the growth in the ranks of unemployed? Such crude distortion of the principle of progressive taxation in the case of crude oil is bound to cause periodic depressions. When the people's purchasing power is being drained by high taxes in order to make up the loss of $13 billion in revenue which should come from the crude oil industry, there is bound to be unemployment. Some people in high office say that the current depression is temporary—the economy is catching its breath. A more correct explanation for the current condition would be: The people are taking a rest to get up more strength to pay the taxes which should be paid by our largest industry.

How can we fight the battle of peace with any degree of success, when our own house is in such disorder? Our cause is not too convincing so long as people are allowed to bore into the vitals of our national economy through excessive drilling, to add to the swollen ranks of oil millionaires and the swollen ranks of jobless.

In order to eliminate one of the principal causes of periodic depressions and to restore a modicum of social justice, the following changes in our tax laws are proposed:

1. The deduction for intangible drilling costs should be limited to situations where the well finds no oil;

2. Intangible drilling costs should be capitalized when the well does find oil;

3. The loophole in section 1239 should be plugged, to discourage fictitious sales to related taxpayers or a controlled corporation, to prevent a stepped-up depletion basis based on cost;

4. Enact legislation to prevent the tens of thousands of reciprocal sales from one taxpayer to another, for the twofold purpose of establishing capital gains and cost-depletion basis. Apply the dealer rule to sales of oil properties which now applies to sales of real estate;

5. Eliminate percentage depletion as an unwarranted handout.

The above changes in our tax laws would discourage tax drilling and encourage scientific drilling. It would bring many billions of revenue to the Treasury.

The world's known oil reserves are estimated at 250 billion, enough to last us more than 100 years. Why not start using them?

The crude oil industry now enjoys a $3 monopoly price per barrel of oil and a $13 billion tax subsidy. The people can make it give up one or the other through reduced consumption of gas and oil.

Mr. DOUGLAS. Mr. President, there is an interesting history about this paper. I had it printed in the CONGRESSIONAL RECORD in another connection. The big oil companies learned about it and had Dr. Haber fired from his job. He is unemployed today and has lost his income. He wrote me a pitiful letter about the circumstances under which he is suffering.

This shows the power of the oil industry, their ruthlessness toward those who stand up against them and take some risk. In a sense, I feel guilty about this matter, because I mentioned Dr. Haber's name in connection with a previous discussion of this subject. I had no idea that the oil companies would hit him below the belt, but they have deprived a scholar and an impartial man of his job simply because he spoke his mind and told the truth. I thought those might be tactics used in Nazi Germany or Communist Russia; I did not think they were the tactics of democratic America. But now Dr. Haber has lost his job, and he is in trouble. I hope very much that this fact may induce some philanthropist to hire this man, who is a good economist, a good accountant, and a good lawyer. In fact, I should devote a little energy to see if I can get him another job.

Finally, Mr. President, I ask unanimous consent that correspondence between Dean Erwin N. Griswold, of the Harvard Law School, and Mr. Rex G. Baker, who was then general counsel of the Humble Oil & Refining Co., which first appeared in the Harvard Law Review, volume 64, No. 3, January 1951, and which was reproduced by the Joint Economic Committee in the Compendium on Federal Tax Policy, for Economic Growth and Stability, be printed at this point in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

PERCENTAGE DEPLETION—A CORRESPONDENCE[1]

(By Rex G. Baker, general counsel, Humble Oil & Refining Co.; Erwin N. Griswold, dean, Harvard Law School)

(EDITOR'S NOTE.—On September 18, 1950, Dean Erwin N. Griswold made a speech before the tax section of the American Bar Association,[2] in which he referred to "gross inequities of the law in favor of the oil and gas interests." A number of newspaper accounts of the speech reported this as an attack on the percentage-depletion provision of the Internal Revenue Code.[3] On the basis of these reports, Mr. Rex G. Baker, general counsel of the Humble Oil & Refining Co., wrote the letter that began the correspondence reproduced herein. Neither author had any intention to publish these letters at the time they were written. No revisions have been made except to eliminate those parts irrelevant to the percentage-depletion controversy and to add footnotes where it has been thought useful to refer to source materials.)

SEPTEMBER 22, 1950.

DEAR DEAN GRISWOLD: You will recall our conversation in Washington concerning the percentage-depletion allowance for oil and gas wells.

Your remarks before the tax section regarding the depletion allowance received widespread publicity, and I am afraid they will be very damaging to the producers of oil and gas in view of your reputation and the responsible position you occupy in the education world.

Both in peace and in war the country must have and is very dependent upon oil and gas. Our civilian economy and the national safety would be jeopardized if we failed to maintain adequate reserves of petroleum and a backlog of reserve producing capacity. This means that it is essential to our country's welfare and safety that the exploration for oil and gas within the United States be continued at an accelerated rate due to increasing demands for petroleum and its products year after year.

The exploration for petroleum is an extremely costly and hazardous business. Oilmen must lease vast areas, must spend large sums in geophysical operations, must drill very expensive wildcat wells, of which 4 out of 5 on the average are dry holes, and must then make enormous expenditures of money in developing proven or semiproven, acreage. Risk capital is not invested unless there is hope of reward.

The producer of oil depletes his capital asset. If he is to stay in the business he must find and develop new sources of supply. If the depletion allowance were taken off, our present tax laws would tax away a large portion of his capital.

It must be remembered that a large percentage of exploratory activity is carried on by the independent wildcatter. He often spends a lot of money and goes broke without finding anything. To say that he would be protected by charging off losses ignores the fact that until he finds oil he has no income against which to charge off his losses. This is quite typical of the wildcatter. If he finally succeeds in finding oil he creates new capital and must be rewarded for the risks he has taken. This reward can be adequate only if the depletion allowance is maintained.

The fact of the matter is that the oil industry has consistently spent in exploratory effort a good deal more than the 27½-percent depletion allowance. It has thus had to look elsewhere for funds with which to help finance its quest for oil.

The 27½-percent depletion allowance was established in 1926. Congress has made searching inquiries on several occasions since as to the necessity for the depletion allowance and the wisdom of maintaining it at 27½ percent. Each time after full investigation and inquiry it has sustained the 27½-percent allowance. This fact alone should, it seems to me, cause anyone to be sure of his ground before he launches an attack upon the depletion allowance.

Herewith I enclose some material which I believe you will find helpful in your future consideration of this matter: a booklet entitled "Let's Keep on Hunting Oil," some statistical data which will show that the 30 leading oil companies have found it necessary to secure new capital by issuing stock and borrowing, that their net worth has consistently been lower than the comparable figures of manufacturing companies, that a large percentage of the net investment of the 30 leading oil companies is in oil and gas producing facilities, data showing the ratio of dividends to net income, the cost of replacing crude petroleum, this cost having steadily risen, financial information for the 25 leading oil companies which shows moderate incomes, and a chart showing a comparison of petroleum prices with the price of coal and oil commodities. This chart shows that the public have been the beneficiaries of the depletion allowance in the form of low prices for petroleum products.

Your attention is also invited to the hearings before the Committee on Ways and Means of the House of Representatives relating to the 1950 revision of the revenue laws.[4]

Yours sincerely,

REX G. BAKER.

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[1] This correspondence appeared in the Harvard Law Review, vol. 64, No. 3, January 1951, and is reproduced here with the permission of the authors and the Harvard Law Review.

[2] Sec. 86 A. B. A. J. 999, 1057 (1950).

[3] Internal Revenue Code, sec. 114(b)(3), provides as follows: "In the case of oil and gas wells the allowance for depletion under sec. 28(m) shall be 27½ percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowances shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under sec. 23(m) be less than it would be if computed without reference to this paragraph."

[4] Hearings before Committee on Ways and Means on H.R. 8920, 81st Cong., 2d sess., 49–60, 100–101, 119, 133–134, 177–309, 733–740, 818–895, 901–926, 1267–1269, 1282–1286, 2975–2983, 2999–3001, 3017–3026, 3028–3029, 3040–3046 (1950).

SEPTEMBER 25, 1950.

DEAR MR. BAKER: Thank you very much for your letter of September 22, which has reached me this morning. I particularly appreciate its fair and restrained tone. This is in considerable contrast with the attitude which is often taken on this matter by others in your area.

As a matter of fact, I said nothing at all in my speech in Washington about percentage depletion. My remarks were directed entirely to the so-called in-oil-payment provisions which had been added to the bill by the Senate.[5] This seemed to me, and still seems to me, to have been a rather clear matter of special privilege. Naturally, I am pleased that it was finally eliminated by the conference committee.

As I have indicated, I did not talk about percentage depletion and had no thought of doing so. There is lots to talk about there, though. In the first place, I would want to make it plain that I have never advocated eliminating the depletion allowance. That would be taxing capital. There would be no more sense in it than in eliminating the depreciation allowance.

Nor do I disagree with you at all as to the importance of oil in our economy, and the desirability of encouraging the industry, particularly with respect to exploration. I do think, though, that there is real reason to question whether the present 27½-percent depletion allowance is not excessive, whether it does not cost more than other ways of achieving the same results, and whether a very large proportion of the benefits do not now go in fact to persons who are not the ones who do the exploring and take the risks.

How about direct subsidies to explorers, for example? Might this not be a better way, and at the same time, a cheaper way? We use subsidies in maritime shipping and elsewhere in our economy. It might be a much more effective stimulus than the present backhanded way of doing it through the depletion allowance.

For example, may I call your attention to the sentence in your letter which reads as follows: "To say that he would be protected by charging off losses ignores the fact that until he finds oil he has no income against which to charge off his losses." I think you will agree that this is really no argument, since it is equally applicable to the percentage depletion deduction. The wildcatter gets no depletion deduction until he finds oil. In other words, the method I suggested then, as far as this point is concerned, would be just as effective, indeed, even more effective (because I would allow a 100-percent deduction until all principal costs had been recovered while percentage depletion allows only a 27½-percent deduction) than is the percentage depletion allowance.

You must know of situations where the present system of taxing oil production works out outrageously. I hear about actual cases from time to time, and they must come to your attention much more frequently. What I would like to see us do is to work out a system which would maintain adequate incentive and stimulate further production of oil without granting enormous tax advantages to drones and others who take little or no risk. I think it is a very real problem, and it would be a great contribution if people in your area, who are familiar with the situation, would devote themselves toward developing a sound and sensible solution to it.

At any rate, having the benefit of percentage depletion, it would seem to me to be the heart of wisdom for persons interested in the oil industry not to jeopardize that advantage by seeking to get additional tax favors which are less warranted. I refer, of course, to such things as the in-oil provision, and others which are suggested from time to time. There is a good deal of feeling about percentage depletion but it is very likely that nothing can or will be done about it. I would point out, though, that the community property problem was finally solved, though it seemed for many years at least as difficult. The surest way that I can think of to focus attention of other parts of the country on the percentage-depletion situation, and possibly to produce fairly strong reaction, is to push it even more in the way of tax privileges.

Very truly yours,

ERWIN N. GRISWOLD.

OCTOBER 11, 1950.

DEAR DEAN GRISWOLD: I did not have an opportunity to hear your speech in Washington. My information came from remarks made by people who did hear it and from press reports. It is reassuring to be told that you had nothing to say in your speech about percentage depletion. As for the in-oil-payment provision referred to, I quite agree with you that this proposed legislation was not justified. I do not know who sponsored it. It is my belief that no responsible person in the oil industry did so. I, too, am pleased to know that the conference committee eliminated this measure from the bill that was finally passed.

It helps clarify our thinking for you to state that you have never advocated elimination of the depletion allowance. I agree with you that to do so would amount to taxing capital. The question is at what point the depletion allowance should be placed in order to encourage the generation of risk capital so essential in finding oil. Those of us in the oil industry who have lived close to the subject believe that the 27½-percent depletion allowance is more than justified.

The rate of 27½ percent for the depletion allowance has resulted over a period of years in a depletion which has been very nearly equal to the actual expenditures for finding oil by the industry. A survey by the Mid-Continent Oil and Gas Association of companies producing approximately half of the oil in the United States showed that in the period 1925-48 the expenditures for finding oil were within 10 percent of the allowable depletion. In 3 of the 5 years, 1944-48, the expenditures for finding oil exceeded the allowable depletion of this group of producers and for the 5-year period, 1944-48, allowable depletion was within about 6 percent of the expenditure for finding oil. These close relations indicate that the allowable depletion does have a direct effect on expenditures for finding oil and that the amount is not excessive in relation to the capital risked in the search for oil.

The rate of 27½ percent for depletion was determined by Congress after study of experience on the part of the industry in the years immediately prior to 1926 when this method was first adopted. The rate has been reexamined subsequently a number of times and approved by Congress in spite of attack by the Treasury Department. The depletion provision has encouraged the search for oil, resulting in great discoveries and supplies. Even if the rate of 27½ percent had been too high at one time, it has become part of the industry's cost and price structure so that any change in the rate now would tend to affect supply and price.

You have raised the question whether the 27½ percent depletion allowance does not cost more than other ways of achieving the same results. Percentage depletion probably costs less than any other way which could be devised to compensate for the risks involved in the exploration for oil and to encourage the necessary amount of exploration. This is probable from an economic standpoint, because the provision stimulates efficiency on the part of operators, since depletion is limited to 50 percent of the net profit margin. The operator has, in addition to the normal stimulus of profit from efficiency, the further attraction of a tax incentive under the present law. The depletion provision also attracts into the search for oil some capital that otherwise never would be risked in the industry, some of which adds to the discovery of oil and some of which is lost forever.

Direct subsidies to explorers probably would cost more and be less effective than percentage depletion. In the year 1949 there were 14,109 dry holes drilled in the United States. The average cost of these wells was at least $50,000 and the total cost was about $700 million. The Treasury Department has never claimed that taxes could be increased by any amount approaching such a figure through a change in percentage depletion. Even if Government subsidies involved paying only part of the cost of dry holes instead of the complete cost, the cost of the program might be greater than $700 million a year because of the additional number of dry holes that could be encouraged by the subsidies. A drilling contractor, unable to find sufficient work to keep all of his rigs busy, for example, very probably would be led by subsidies into drilling wells even if he did not expect to establish production. Efforts to limit the cost of the subsidy by controlling the drilling location of wells would involve the Government in endless details and expenses regarding geology, geophysics, and other matters, and subject the industry to stifling controls by men in Government who know nothing about the business of finding oil.

Subsidies in maritime shipping are closely related to the fact that the Government has imposed regulations on the shipping industry which result in high costs relative to the merchant marine of foreign countries. There is no comparable reason for subsidies in petroleum production. The oil-producing industry feels that it is entitled to reasonable tax treatment to avoid the taxation of the capital which it creates through the discovery of new reserves, but it does not seek subsidies which at best would be destructive of efficiency, difficult of interpretation and administration, and extremely expensive to the taxpayers. Oilmen are by nature individualists and are opposed in principle to Government subsidies.

You further inquire whether a very large portion of the benefits from the depletion allowance does not go to persons "who are not the ones who do the exploring and take the risks." Statistics cited by the Treasury Department in its latest proposal to reduce percentage depletion make it clear that the great majority of the benefits go to the companies—both small and large—which are now engaged in exploration and development.[6] All of the large oil companies which produce more than half of the oil in the United States, are engaged in extensive and expensive exploration and development programs. A review of the annual reports of these companies demonstrates the vast sums of money, running into the billions of dollars, which have been poured into the search for and development of new reserves within

[5] The Revenue Act of 1950, as reported by the Finance Committee of the Senate, provided that the amount received from the sale of the right to obtain a stated amount of production from an oil, gas, or mineral property, while retaining a continuing interest in such property, should be treated as proceeds from the sale or exchange of a capital asset. H.R. 8920, 81st Cong., 2d sess., sec. 214 (1950) (as passed by Senate); see S. Rept. 2375, 81st Cong., 2d sess., 66, 91 (1950).

[6] Hearings before Committee on Ways and Means on H.R. 8920, 81st Cong., 2d sess., pp. 49-60 (1950).

the past few years. The small operators, similarly, are spending sums proportionately as large considering their production. It is not true, as is sometimes alleged, that the small operator searching for oil today sells his property upon development of production. Occasionally some operators sell producing properties, principally to put their estates in liquid condition to pay inheritance taxes, but the great majority of the operators, who discover production today develop their properties and produce them. Such operators are receiving the benefits of the reasonable tax provisions applicable to oil production as a result of taking risks in exploration and development.

The purchaser of a proved property, who is still taking considerable risks with respect to the amount of recoverable oil and the future price, generally pays a price which means that percentage depletion is of no benefit to him because it is less than cost depletion. At the present time, for example, developed oil reserves in the ground generally sell for about $1 a barrel which exceeds the percentage depletion, amounting to a maximum of 71 cents a barrel on the present price of $2.58 a barrel. If the percentage depletion provision is applicable and appears to place the purchaser in a position to save taxes, it influences the price he is willing to pay for the property and so results in a benefit to the operator who found and developed it. An inflationary trend which raises the price of all commodities may result in tax benefits even to a purchaser whose cost depletion at the time of the purchase exceeded the prevailing percentage depletion, but that is the reason for criticism of the conditions which bring about inflation and not for criticism of the operator who purchased an oil property on the basis that it was a reasonable investment at the prices then prevailing.

Perhaps the criticism that the benefits of percentage depletion go to persons who are not the ones who do the exploring and taking of risk is meant to apply to royalty owners. Even the royalty owner, however, may take risks and there are, in fact, many royalty owners who are also engaged in exploration and drilling. In fact, many independent operators regularly buy royalties as part of their business. Basically, however, the reason for application of percentage depletion even to the royalty interest is to protect the capital of the royalty owner which arises from the discovery and development of oil. The royalty owner, as much as the producer, has a known capital value as soon as production is established and is entitled to protection of that capital value before his income is subjected to the ordinary tax rates.

In your comments relative to the in-oil provision you seem to imply that percentage depletion is an advantage amounting to a tax favor, even though you can see it is warranted more than the provision regarding oil payments.[7] In the opinion of the oil industry the percentage depletion provision is merely a recognition of the penalties inherent in the risks involved in finding oil, and is necessary to avoid a tax penalty amounting to taxation of its capital to which it should not be subjected. Percentage depletion merely places the oil industry, insofar as the taxing of capital is concerned, on an equal footing with other industries which do not create new capital through discovery of hidden resources.

Yours sincerely,

REX G. BAKER.

OCTOBER 14, 1950.

DEAR MR. BAKER: The figures which you cited in your last letter are interesting and significant. However, they do not, I believe, take account of the fact that a large proportion of these expenses are deducted in computing income taxes, in addition to the percentage depletion deduction. I am referring, of course, to the optional deduction allowed for intangible drilling costs, and other similar deductions.[8] The figures you give would be more persuasive to me if they showed a comparison between the costs on the one hand and the aggregate deduction on the other. By aggregate deduction, I mean not only percentage depletion, but also the deduction allowed for intangible drilling costs and other expenses. I do not believe that the comparison would be nearly as favorable as the figures you give indicate. Indeed, I should think this might be a major weakness in your argument.

Now let me turn to the last paragraph of your letter. The basic difficulty here, it seems to me, is one which is rarely disclosed in discussions from the oil country. This is the "discovery" allowance which is implicit in percentage depletion. I know of no other area in our tax law where very large increments in capital value are wholly exempt from taxation. You say that percentage depletion is necessary to enable the industry to preserve its capital. But this is obviously using capital in a double sense, and in a sense which is not applicable to other taxpayers. For other taxpayers, that capital, recoverable through depreciation, or on sale, or otherwise, is their investment in the property. Only in the oil business do "discoveries" become capital for tax purposes. Frankly, I find some trouble seeing why this should be so.

You suggest that this is necessary because of the risks involved in finding oil. I do not minimize these risks. I know that in a sense, they are very great. However, I think a pretty good case can be made for the proposition that large outfits, like the Texas Co., or the various Standard Oil companies do not take very substantial risks, except in a sense analogous to that in which it is said that the New York Life Insurance Co. takes risks. Or, to put it another way, when the operations are on a large scale, as in the life insurance business, the probability that things will come out somewhat as planned is very great. I do not mean to say that the probability is nearly as great in the oil industry as in the life insurance business. Nevertheless, experience has shown over the past 20 years that the big oil companies stand a high probability of success. They have no difficulty recovering the costs of their unsuccessful ventures from the products of their successful ones. I really seriously question whether it can be shown that percentage depletion is a necessary compensation for risks taken in these cases. The situation with respect to wildcatters, and the problem of stripper wells, are quite different. But the big companies account for a very large proportion of the production. It is far from clear to me that percentage depletion is ever necessary either (a) to compensate them for risks taken or (b) to safeguard their capital investments.

Very truly yours,

ERWIN N. GRISWOLD.

OCTOBER 16, 1950.

DEAR DEAN GRISWOLD: Enclosed is a section of yesterday's Houston Chronicle which contains a good deal of information concerning the oil and gas industry.[9] It will give you some idea of the enormous cost involved in finding and developing oil and gas, and of the tax burdens borne by the industry.

Yours sincerely,

REX G. BAKER.

OCTOBER 20, 1950.

DEAR MR. BAKER: It was good of you to send me the oil progress section of last Sunday's Houston Chronicle. I have looked at this with much interest.

I must confess, though that I am still not impressed by the tax burdens borne by the industry. I have no doubt that the industry presents many problems and bears a good many burdens. But its tax burdens would surely seem to be lighter than those carried by most other industrial enterprises. Take a look someday at the proportion of taxes to net income of three large oil companies, on the one hand, and three large nonoil industrial enterprises on the other. The figures are astounding.

If you say that you are not talking about the big companies, but about the little fellows, then I think we might meet on common ground. But a very high proportion of the tax benefit goes to the big companies.

Very truly yours,

ERWIN N. GRISWOLD.

OCTOBER 26, 1950.

DEAR DEAN GRISWOLD: It is a pleasure to receive your letters of October 14 and 20 on the subject of taxes paid by the oil industry. Your interest in this subject leads me to set forth a few additional points about the operations of the oil industry, for it seems that the lack of general understanding of the peculiarities of oil production is one of the principal reasons why the tax provisions relating to oil production are often criticized.

A crucial point, as brought out in your letter of October 14, is the question of contribution of the developer of oil production and the measure of the capital which he is entitled to recover free of tax. Two points seem pertinent on this question.

In the first place, let us consider two individuals investing $500,000 each, one in the search for oil and the other in an office building. The individual searching for oil may spend $100,000 on each of five different leases and establish production on only one of the leases. The other individual erects an office building with his $500,000. Would it be fair to allow the oil operator to recover as capital on his productive lease only the $100,000 that he put into that lease? If the individual is to risk his money in the search for oil it would seem that he would do so only with the prospect that he would recover more than the $500,000 spent on all of his ventures if he is successful. There is always the chance that he may find no production with his investment and all of his capital may be lost. To offset that risk there must be the attraction of a reward commensurate with his success if he finds oil. Another individual might venture $500,000 in the search for oil and discover twice as many barrels of reserves as his competitor, due to skill and good fortune. In this latter case he has made a contribution to society which is worth twice as much as that of his competitor. As soon as the oil is discovered and developed it can be sold in place, without being produced, for a known capital value, and, in case of such sale, taxes are on the basis of capital gain rather than current income.

The second point is that a producer of oil realizes two distinct kinds of income; namely, a capital gain on the sale of an asset which has been held for a long period of time and a short-term income on the operation of a producing property. The capital gain is measured by the difference between his investment in establishing the production and the price at which he could sell the oil in place and turn it over to someone else who would then make the current profit on the operation of the producing property. The percentage-depletion provision results in substantially the same rate of taxation as would result from the separation of income into its two component economic parts and

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[7] See p. 365, supra.

[8] U.S. Treasury Regulation III, sec. 29–23 (m)—16(b) 1943.

[9] Houston Chronicle, Oct. 15, 1950, sec. E.

the taxation of one part as capital gains and one at current income tax rates. In the absence of such consideration in the income tax laws, operators discovering and developing oil would be encouraged to sell their oil in place rather than to continue in business. It would seem to be in the public interest for tax policy to permit and encourage successful operators to stay in the business rather than to sell their properties to others who may have been less successful in the search for oil.

You raise the question whether the operations of large oil companies do not in effect reduce the risks of this business to those comparable with a life-insurance company and suggest that the probability that things will come out somewhat as planned is very great. I am sure you would find that the life-insurance companies do not consider their business in any way comparable with that of oil production, else with their large funds they would already have entered this business. A life-insurance company not only knows the risks but also the precise amount of money which it is going to spend and take in. The company engaged in the search for oil has not such assurance. It only knows that if it has average experience more than 1 out of 3 wells that it drills will be dry, but it has no way of knowing how much oil its productive wells will develop or what the value of that production will be when the oil is produced over a period of 20 or 40 years. A decline in the price of crude oil, for example, such as occurred between 1926 and 1933, can wipe out the apparent profits anticipated on the basis of cost and price realizations at the time of the investment. Naturally, the investments of the oil companies made during the depression seem very successful, but so do practically all other investments made at the same time. That fact does not provide any assurance against a decline in prices. The big oil companies are definitely taking very substantial risks which may break them as well as make them in the future. The Humble Oil & Refining Co., for example, has spent millions of dollars in Florida and to date established only a very small production. Unless our efforts and luck in that area improve, we stand to lose a very large sum of capital that Humble has risked in the venture. If we do lose our investment, we can deduct it in calculating our income tax payments just as any other business could deduct its losses on an unsuccessful investment, but that does not return to us the capital which Humble has risked. In the year 1949 alone Humble's dry-hole costs were $32,267,000, and even after consideration of the reduction in income taxes due to such loss it is clear that we risked and lost a very substantial sum of money. We can have no hope of realizing a return on that investment. Indeed, the investment itself is wiped out.

One final observation may help to throw additional light on the question of the oil industry's risks and the relation between its costs and deductions. I mentioned in the previous letter that a survey by the Mid-Continent Oil & Gas Association showed a close relation between the expenditures for finding oil and the allowable depletion. In your letter of October 14 you ask about the optional deduction allowed for intangible drilling costs. The same study previously referred to shows that the investment of the companies included in the survey in drilling and equipping productive wells exceeded their expenditures for finding oil. The sum of the expenditures for finding oil and for drilling and equipping productive wells was approximately twice the total allowable depletion of the companies for the period 1925–48. The investment in drilling and equipping productive wells was recovered only once as a deduction of intangible drilling costs and depreciation of tangible drilling costs. I did not mention this fact in my previous letter because percentage depletion relates to the depletion of the oil itself and, therefore, to the expenditures incurred in the search for oil rather than to the tangible and intangible investments in drilling, which are recovered through the option to expense intangible drilling costs and the depreciation of other drilling costs. This evidence is quite significant on the point which you considered a weakness in my previous argument.

In your letter of October 20, 1950, you suggest that we look at the proportion of taxes to net income for three large oil companies on the one hand and three industrial enterprises on the other. The point you are referring to can be illustrated from the comparison of the reports of United States Steel and Humble. In 1948 United States Steel showed a net income before Federal income taxes of $239 million, compared with Humble's net income on the same basis of $240 million, while United States Steel paid Federal income taxes of $109 million and Humble paid $54 million. In 1949 United States Steel paid $126 million in Federal income taxes on a net income before taxes of $292 million, whereas Humble paid Federal income taxes of $18 million on an indicated net income before taxes of $138 million. The explanation of the difference in the effective rate lies, of course, in the fact that a considerable part of Humble's net income really represents capital gain on the sale of its oil, and this capital gain should be taxed at 25 percent rather than at the normal corporate income tax rate, also in the fact that Humble is taking its depreciation on intangible drilling costs as it makes such investment rather than spreading the depreciation over the life of the properties. If Humble were to quit drilling or to reduce its drilling operations, the effective income tax rate would materially increase. Over a period of time the only difference between the effective tax rate on a steel company and an oil-producing company would be because of the percentage depletion, which is thoroughly justified in order to afford fair treatment of the capital gains realized on the sale of oil as it is produced.

I have taken the liberty to write at length on points suggested by your letters because you have shown a genuine interest in an objective inquiry about the facts with respect to the tax provisions on oil production. We find in our own operations that the business of exploration for and development of oil and gas is very complicated and not always fully understood even by some of the operators engaged in this business. It has been my endeavor to set forth information which may help to give you a better picture of the problems of oil production. We believe that the problems and peculiarities of the oil-producing business warrant and require the tax provisions now applicable with respect to percentage depletion and the option to expense intangible drilling costs.

Sincerely yours,

REX G. BAKER.

NOVEMBER 6, 1950.

DEAR MR. BAKER: Please let me thank you for your letter of October 26. I have read it with much interest, and I would like to make certain observations.

In the first place, it seems to me entirely clear that the costs of any oil operations should be fully deductible from income, including subsequent income from other operations, where there is no current income against which the costs may be deducted. Taking as an example the situation given near the beginning of your letter, if a person spent $100,000 on each of five different leases, and established production on only one of the leases, I would allow the full $500,000 to be deducted against income, other current income from any source if there was such income, or against subsequent income from any source. This could be done by a system of carryovers. If the present 5-year limit[10] on carryovers is not enough, I would have no objection to its being extended. I am entirely in favor of taxing no more than the net income of oil operations. I still find it somewhat difficult to see why we should tax less than that net income, which may be, and often is, the result of the 27½-percent depletion allowance, which goes on without limit, and without relation to (a) actual depletion sustained or (b) the aggregate amount invested by the taxpayer in oil production.

The rest of your letter is devoted to what seems to me to be the heart of your argument. In substance, you seem to be saying that all income from oil production should, in effect, be taxed as capital gain, and that this gives an adequate justification for the present depletion allowance. This argument, I must confess, I find very hard to follow.

Is it not clear that income derived from oil production is business income? Is there any other sort of business income which is taxable as capital gain? When the grocer sells you a can of peas, he sells you property, but the gain is taxable as ordinary income, no matter how long he has held the peas. The same is true of a manufacturer, or of a real-estate operator. Indeed, the same is true of every other sort of business income. Why should income derived from oil production be treated in any other way? Perhaps the answer is that all income should be treated as capital gain. That would, of course, be attractive, and it would not result in discrimination between different types of business activity, as is the situation now. But it would hardly produce the revenue which, for better or for worse, is necessary under current conditions.

You mention the fact that in the year 1949 alone Humble's dry-hole costs were $32,267,000. But every nickel of that was deducted against other income, and Humble was not taxed on anything in excess of its net income. On the contrary, Humble paid taxes on much less than its economic net income, as can easily be shown by comparing the company's net income, in its reports to stockholders, and the much lower figure for net income which was undoubtedly given on its income tax return as a result of the 27½-percent depletion deduction. It is true that Humble risked and lost a lot of money on dry holes. But it is also true that it made even more money on other activities. And no one suggests that it should be taxed on anything more than its net income, after making full allowance for all the losing ventures. Frankly, I find it very hard to see why the dry-hole costs, fully allowed as tax reductions, have any bearing on the justification of the depletion allowance. There are many other industries which have to risk large sums, without any immediate or current tax deduction. I need to refer only to the steel industry for an illustration. There, large sums must be spent which are capital costs, and not deductible at all, except through carefully measured and limited depreciation deductions. In this respect, it seems to me that the oil industry has a great tax advantage, quite apart from the unlimited depletion deduction.

When all is said and done, your argument seems to boil down to the proposition that income from oil production should be taxed as capital gain. This appears near the end of your letter when you state that the percentage depletion deduction "is thoroughly justified in order to afford fair treatment of the capital gains realized on the sale of oil as it is produced." This argument seems to me to be clearly unsound. I can see no

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[10] Internal Revenue Code, sec. 122.

reason why, if valid at all, it would not be equally valid to all other income from production. Take, for example, the income from farms or from manufacturing. The farmer produces property. The manufacturer produces property. Yet no one has ever seriously argued, I believe, that their gains on the sale of this property should be taxed as capital gains, or that they are capital gains. The income from the conduct of the business is clearly business income. Oil production is clearly a business. I can see no reason why the income derived from the business of oil production should not be taxed as ordinary income. I repeat that I refer only to the net income, after full allowance for all costs incurred and for all capital actually invested in the business. But the percentage depletion deduction goes far beyond this. It gives a very large deduction, which bears no relation either to costs or to actual capital investment. I am still puzzled why anyone should think that it has a proper place in a fair and equitable tax system.

I have no hostility to the oil industry. On the contrary, I admire its great achievements, and its great contributions to the country, its economy, and its defense. But there are also many other forms of activity which contribute greatly to the country, its economy, and its defense. Why should they not all be treated the same? Why should the oil industry be the recipient of a tax deduction, enormous in the aggregate, which bears no relation to its costs, or to the capital invested in oil production?

Very truly yours,

ERWIN N. GRISWOLD.

NOVEMBER 8, 1950.

DEAR DEAN GRISWOLD: Your letter reveals the difficulty that even a man of your ability has in understanding the real nature of the oil business and the risks involved in finding and producing oil. After all, the basic principle involved in the depletion allowance is rather simple. The man who explores for oil must invest sums of risk capital. He may lose this capital altogether on unsuccessful ventures. He may through luck or skill succeed in finding an oilfield. If he does, he creates new capital. In producing that oil he depletes the corpus, and if the taxing away of his capital is to be avoided he must have a depletion allowance. Only in this way can he, under our existing tax rates, have enough left with which to do further exploratory work with the hope of finding new reserves to replace those depleted by production.

There is no way to compare his real situation with that of the steel manufacturer or the farmer mentioned in your letter. The man who builds a steel mill can depreciate every dollar of his investment in time, and through depreciation get his capital investment back tax free. The farmer who raises a crop does not deplete the corpus of his farm, for he is able to grow a new crop year after year. Therefore, any sums he may realize from the sale of his crops are ordinary income. Of course, he can charge off depreciation on his tools and equipment because they wear out and must be replaced.

Thus in its essentials depletion does nothing more than afford the oilman an opportunity to replace his capital. This is exactly what is done with the owner of the steel mill who is allowed depreciation on his plant investment. To me this analysis is simplicity itself and I cannot see how its validity can be questioned.

I sincerely hope that you will be able to come to Texas someday. Perhaps you would enjoy a trip to the oilfields and an opportunity to witness the widespread wildcat operations which are taking place in this part of the country. Then I believe you could better understand why the enormous risk capital involved in operations must be regenerated out of the depletion allowance on the oil that is found and produced.

Sincerely yours,

REX G. BAKER.

NOVEMBER 27, 1950.

DEAR MR. BAKER: It seems to me that your position boils down essentially to one matter; namely, that oil producers are entitled to special tax treatment because their income is essentially capital gain.

The argument that the present percentage depletion allowance is necessary to enable you to recover your actual cost will not stand up, particularly as applied to a company like yours. I have made it plain that you, or any other oil producer, should be able to recover all of your actual investment before any tax liability is incurred. As a matter of fact, though, the combination of the deduction of intangible drilling costs plus percentage depletion gives you, and most oil producers, a deduction far in excess of your costs. I have no doubt, for example, that the aggregate of these two deductions taken by Humble in the years since percentage depletion became available is far in excess of the aggregate of Humble's actual costs in those years. There is no other type of business enterprise in this country which receives deductions in excess of costs through depreciation or otherwise.

In the case of certain independent wildcatters, it may be that a succession of dry holes will produce costs which cannot be offset, under present laws, against subsequent income. This should be largely taken care of, however, by the present provision of the law allowing losses to be carried forward for 5 years. If this is not enough, I would have no objection whatever to any change in the law which would make it plain that no oil producer was subject to tax until he had received deductions equal to all of his costs which had not previously been effectively deducted from gross income.

Let us try to test your capital gains argument. Suppose we had a tax, like the English tax or the Canadian tax, in which capital gains are not taxed at all. Could you successfully maintain the position that income from oil production is not subject to tax at all, because it is capital gain? It seems to me that the answer to this is quite plainly "No."

The tax systems which do not tax capital gains all draw the line closely between what they regard as capital gain and profits from trade or business. It is clear that the operations of oil production are a trade or business, within this concept, as well as under our own law.

We do not have to speculate about this. The Canadian income tax is a clear example. Under that law, capital gains are not taxed. But it has never been seriously suggested, as far as I know, that the income from the production of oil and gas in Canada should be wholly exempted from tax on the ground that it is capital gain. On the contrary, it is clear that it is regarded as income from trade or business, and subject to tax as income. It is true that there is special allowance for depletion under the Canadian tax law. This may, however, be a reflection of the special deduction allowed in the U.S. law.

On the whole it seems to me that the best position you have developed is the capital-gain one. Even on that basis, though, I think you claim too much. Under our law capital gains are taxed, though at a maximum rate of 25 percent. But the percentage depletion deduction is supposed to reflect the old discovery-value allowance. The effect of this was to make the capital gain on the discovery of oil (or other minerals) wholly exempt from tax. In other words, discovery value—and, therefore, percentage depletion, to some extent—clearly goes too far. I think I could understand a provision which said that income from oil and gas production should be taxed as capital gain, and which, accordingly, completely eliminated the percentage-depletion deduction. Trying to get both capital-gain treatment, and the percentage-depletion deduction, as in the recently defeated provision about in-oil payments, is clearly trying to get too much. And if income from oil production was taxable as capital gain, I should feel that, under current conditions, the present 25-percent rate was far too low.

However, it still seems to me that taxing income from oil production as capital gain would be quite wrong. Such income is clearly income from the conduct of a trade or business and is not capital in its nature, even though it arises, in a sense, out of increases in the value of property. After all, the income of any manufacturer or retailer likewise arises out of increases in the value of property; namely, the property which is manufactured or sold. Such income, however, is clearly not capital gain. There is no better reason, as far as I can see, why the business income of oil producers should be taxed as capital gain merely because it is derived by selling the property that they produce.

You suggest at various places in your letters that the oil producer should be able to get tax free the capital he has produced. I do not know any other line of activity in which a person recovers tax free any capital he may have produced. Even in the case of capital gains, the basis for determining gain or loss will be only the amount actually invested in the property. It is only the oil industry which gets a return free of tax in excess of its actual capital investment.

Thus, the percentage depletion allowance turns out to be nothing more than a special subsidy. If that fact were more generallly understood, I cannot help wondering whether the present allowance would be continued unmodified.

Very truly yours,

ERWIN N. GRISWOLD.

DECEMBER 12, 1950.

DEAR DEAN GRISWOLD: As I interpret your letter of November 28, you insist that oil producers receive special and unwarranted tax treatment and that all their income should be taxed as ordinary income, despite the fact that in your letter of September 25, you concede that oil producers are entitled to a depletion allowance, merely questioning the advisability of placing it at 27½ percent. Actually, the depletion allowance is applicable to relatively few oil-producing properties. In practice, cost depletion applies to the poorer properties. Furthermore, percentage depletion is limited to 50 percent of net income derived from a producing property. Thus, in general, it is improper to refer to 27½-percent depletion rate as applicable to all oil properties.

The producer of oil receives two different kinds of income. He realizes a capital gain or loss on the sale of an asset held over a long period of time and a normal income on the operation of a producing property. The income tax law authorizes the taxation of income and not capital. Therefore, any capital gain from the sale of an asset held over a long period of time should not be taxed as normal income. Only the income derived from producing operations can justly be taxed as normal income. Consequently, the depletion allowance, which makes it possible to avoid the taxing away of capital, does not give special treatment to the oil industry and is completely justified. This is proved by the fact that the profit figures for the oil industry clearly follow the same pattern as for other industries.

There is no evidence that the tax provisions have resulted in advantage for oil producers as compared with businesses in general. The fairness of a tax cannot be judged by merely looking at the most successful

operators, but must be tested by considering the average results for all operators.

The function of such profits as are realized after taxes is to direct investment capital into different activities in proportion to need. There is no evidence that profits have been so high as to attract any more capital into the oil industry than is needed. While the oil industry has constantly expanded, the expansion has contributed greatly to the maintenance of low prices for fuels, to economic progress, and an expanding economy. If the profit rate on oil production had been reduced by higher taxes, the capital attracted into the industry would have been reduced; additions to oil reserves would have been less. The smaller supply of energy would have retarded economic progress in the United States, and the price of gasoline and other petroleum products to the consuming public would have been materially increased.

Thus, it seems clear that the wisdom of the depletion allowance is more than justified, and experience has demonstrated that the depletion allowance is not excessive but has been only enough to generate new risk capital required in exploring for oil.

Yours sincerely,

REX G. BAKER.

Mr. DOUGLAS. Mr. President, this completes the formal presentation of the material in support of my amendment.

I have not been in politics for a quarter of a century without knowing the forces which are alined against this amendment—the most powerful forces in the country, contributors to campaign funds, contributors to campaign committees, contributors to individual senatorial and congressional campaigns. In return, it is asked that the men so helped protect the depletion allowance. This is one of the most corrupting influences in American politics; and both parties are tarred with it.

I had hoped that my party—the party of Bryan, Woodrow Wilson, Franklin D. Roosevelt, and Harry Truman—might remain immune, or relatively immune, from this influence; but it is not so. Those in the know are well aware of the powerful influence of the oil companies upon Democratic policy and Democratic votes, and also—perhaps to an even greater degree—upon votes on the other side of the aisle.

But, Mr. President, if we are to retain any faith in our system, we must enforce the tax laws without fear or favor. By favoritism, we are encouraging evasion and avoidance on the part of millions, who say the whole system is a racket, that the big boys can get legal protection, so why should the others declare all their income? The expense accounts and the other forms of evasion are eating like an ugly cancer all through our national life; and we have made it worse in the last weeks in the Finance Committee and on the Senate floor, as measure after measure to help the powerful and the rich has gone through, but amendment after amendment to try to protect the average taxpayer has been voted down. We have seen the spectacle of a bipartisan political combination, operating on both sides of the aisle, move like a juggernaut in this direction.

Mr. President, I am well aware that when the issue is put to a vote—whether on a motion to lay on the table or whether a vote directly on the amendment there will be a majority, and probably a big majority, against this amendment. But I take some courage from the fact that when the vote was taken on the amendment of the Senator from Delaware [Mr. WILLIAMS], 30 Senators voted against laying it on the table.

I remember that back in 1951, when we began this fight, only nine Senators wanted to reduce the depletion allowance. They were the Senator from Oregon [Mr. MORSE], the Senator from Delaware [Mr. WILLIAMS], the Senator from Minnesota [Mr. HUMPHREY], myself, and five others, whose names I cannot remember at the moment—but only a total of nine. Now the number has grown, even on an incomplete rollcall, to 30; and I was especially pleased that the chairman of the Senate Finance Committee, the senior Senator from Virginia [Mr. BYRD], voted with us on that yea-and-nay vote. I think it is the first time he has done so. It may be indicative of the shift in public opinion.

We know we shall be beaten tonight; the bipartisan coalition will roll over us. But we shall go down fighting, even at this late hour.

Some of the supporters of the depletion allowance scornfully say, "These amendments have been defeated before, and they will be defeated again. So pay no attention to them; they do not amount to anything."

Mr. President, I thought of some lines written by James Russell Lowell, who perhaps is out of fashion today, but who wrote some good poetry about the antislavery issue—poetry which also is applicable to the depletion-allowance issue. Since other Members of the Senate have quoted poetry—of an inferior nature—I hope I may be pardoned if I quote these lines from James Russell Lowell:

Truth, crushed to earth, shall rise again;
The eternal years of God are hers;
But Error, wounded, writhes in pain,
And dies among his worshippers.

Mr. President, it is solemn truth that the depletion allowance should be greatly reduced. We are going to be beaten tonight; but in God's good time we will not be beaten, and the powerful oil interests which have their representatives on this floor, and who will vote down this measure and who will be victorious this time, in due course of time will not be victorious, because they are defending something which is morally and economically wrong.

Mr. PROXMIRE. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I am glad to yield for a question.

Mr. PROXMIRE. Will the Senator from Illinois inform the Senate how much this amendment would increase revenue?

Mr. DOUGLAS. The minimum estimate of the Treasury is about $320 million. The Library of Congress estimate is approximately $500 million. Probably the correct figure is somewhere between the two; and the amendment would roughly balance the tax bill.

Mr. PROXMIRE. That is my second question. One of the serious problems in connection with the pending tax bill—and in the judgment of many persons it is the most serious problem in this connection—is that this tax bill, which started as a revenue-raising bill, will now result in the loss of hundreds of millions of dollars of revenue.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. But the effect of the amendment of the Senator from Illinois would be to change that situation and to compensate for the revenue losses caused by other parts of the bill; and thus the amendment would result in a balanced tax bill, which would not lose a substantial amount of revenue, and might even balance the revenue losses with a revenue gain.

Mr. DOUGLAS. The amendment would result in a roughly balanced bill—not a precisely balanced bill, but a roughly balanced bill.

Mr. PROXMIRE. Is it not true that perhaps the best test of justice or of what some might call liberalism is one's attitude toward revenue-raising measures? And is it not true that we can determine—on the basis of Senators' votes whether they believe taxation should be based on ability to pay or that it should be based on political and economic power? Would not this seem to be the place, if any, to divide those who believe in economic and political justice from those who do not?

Mr. DOUGLAS. Amendments such as this one will, in the slang parlance, separate the men from the boys. Whatever may be one's view in regard to the general system of taxation—whether one believes it should be proportional, with the rate constant as income increases; or whether one believes that it should be regressive, with the rate decreasing as income increases; or whether one subscribes to the position to which I hold; namely, that the rate should increase as income increases—in any case those with equal incomes should pay equal taxes. But that is not the case when special groups receive special and favored treatment in regard to the taxation of income.

Mr. President, I yield the floor.

Mr. MONRONEY. Mr. President, I rise in opposition to the amendment of the distinguished Senator from Illinois.

At the beginning, I would like to say that many of us who have long supported the depletion allowance have done so from deepest conviction that it is not only economically sound, but that it has been indispensable to building in this country a reliable, available source of the mineral which is the most necessary to our economy in peace or war.

In my State oil is the second largest income producer, ranking only slightly below agriculture.

I assume that the distinguished Senator from Illinois is speaking with complete integrity as he discusses the various economic issues which he regards as important to the Nation or to the State of Illinois. I ask that the same credit for honest conviction be given to those of us who see this question in a different light.

The Senator implies that we are tools of the giant oil industry. It is also possible that on the merits of the issue, he is wrong and we are right.

The amendment the Senator offers would, I believe, be subject to severe

criticism on many grounds. The Senator, in his amendment, is singling out oil as an evil thing and treating the depletion allowance as merely a means of grabbing extra income.

We in Oklahoma consider the depletion allowance as the greatest possible accelerator to make America self-sufficient in oil.

Like the Williams amendment, this amendment proposes to single out oil and gas and establish a sliding scale of depletion for that 1 mineral out of the 37 which enjoy comparable depletion allowances.

Not only does it single out one industry for different treatment, but it singles out the industry which consistently spends a greater percentage of its income to find and develop new supplies—the purpose of all depletion allowances—than any other mining industry. It singles out the only mining industry which consistently spends $3 on exploration and development for new supplies for every dollar that it retains in depletion.

The greatest objection to the amendment is that it would extend the maximum depletion allowance of 27½ percent to the very class of taxpayers who are least likely to reinvest in exploration—those whose gross income from oil and gas is less than $1 million. In this group would be most royalty owners and one-shot speculative investors in wildcat wells. It would reduce the allowance to the very classes of taxpayers that are most likely to reinvest not only the funds retained for depletion, but much more in exploration for new supplies. Thus, taxpayers with incomes from oil and gas of more than $1 million but less than $5 million would be given an allowance of 21 percent and those with incomes from oil and gas in excess of $5 million an allowance of 15 percent.

The 33 largest oil companies in the United States are the subject of an annual report by the petroleum department of the Chase Manhattan Bank. All of these companies would have their depletion allowance reduced from 27½ to 15¼ percent on all oil and gas production. The latest issue of this report, entitled "Petroleum Industry, 1961," indicates that these companies spent in 1961 on exploration and development in the United States alone over $100 million more than they retained for depletion, depreciation, and amortization combined.

We cannot have it both ways. If the American oil industry is to continue to find adequate supplies to meet the Nation's needs, it must obtain the necessary funds to pay for the cost of exploration. We must either retain the present depletion allowance, or accept a substantial increase in the cost of gasoline and other petroleum products. There are no other sources of the necessary money. The profits of this industry are consistently lower than the average profits of manufacturing industries in the United States.

Some of those who have been critical of the depletion allowance have frankly recognized that its withdrawal would require an increase in price. Prof. Arnold G. Harberger of the University of Chicago has testified that—

> More oil can indeed be obtained by tax concessions * * * [but] * * * if the rest of the economy wants more oil, it should be willing to pay for it by way of a higher market price.

This means primarily an increase in the price of gasoline.

Rather than agree with the Senator that we are oversupplied or that we are wasteful in investing in oil, I am proud that we continue to have, within the borders of this Nation, an adequate supply of oil which has taken us through two World Wars and the Korean conflict.

I shudder to think, with all our mechanized equipment, from airplanes to submarines to diesel trains to compact cars, that we would have to suffer the outflow of dollars which would be required to import all the oil needed to keep our industrial machine on the move.

I feel that the way to get production is the way we have gotten it in the past, that is, to make it worth the gamble for men to drill. In the days when the depletion allowance originated, it was common to take a string of cable tools and drill 1,000 or 1,500 feet below the earth's surface and hit an oil well. Today we have gone below the 5,000-foot depth. We are probing the 10,000-foot depth. There are wells in my State which are searching for oil at the 15,000-foot level, and there is a search for oil where it has not been found before.

This is equally true of all search for oil today. The lush days of the east Texas field are gone. There has not been a field like that found in more than a score of years. Aside from the Williston Basin, the fields have been small in size and low in production. Yet the Senator from Illinois would take away the right of oil to be treated as any other mineral.

There are over 50 minerals that receive a depletion allowance. Oil and gas receive the top allowance, which is 27½ percent.

It is not generally recognized that the depletion allowance for the oil industry is limited to 27½ percent of its gross or 50 percent of its net earnings, whichever is less. For the industry as a whole, this results in an average depletion allowance of about 23 percent—the same as provided for sulfur, lead, zinc, uranium, nickel, in fact, for a total of 37 other mining industries. Even the producers of sand and clay have depletion allowances under our laws.

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

If the Senator wishes to offer an amendment which would apply to sulfur, bauxite, and the other minerals which he has mentioned, the same depletion allowance as to oil, I would be willing to support the amendment.

Mr. MONRONEY. I am saying that oil which is found by a group that has $1 million gross income a year is as much entitled to a depletion allowance of 27½ percent as a group that has a gross income from oil of only $500,000. After all, profit is the thing we are trying to measure. In a situation such as this, those having a $1 million gross income, whose depletion allowance would be cut from 27½ percent to 21 percent, are not giants. At $3 a barrel, $1 million gross would be produced by 300,000 barrels. This would produce a net profit, on the average, of 25 cents a barrel before taxes, or about $73,000 a year. These are not giants whose depletion allowance would be reduced from 27½ percent to 21 percent.

Mr. PROXMIRE. Mr. President, will the Senator yield at that point?

Mr. MONRONEY. I yield.

Mr. PROXMIRE. Would the Senator support an amendment merely to reduce the level of oil depletion to that allowed sulfur, 23 percent, and permit oil to have the same depletion allowance as the second most favored group of minerals?

Mr. MONRONEY. Of course not, because sulfur is not found at 5,000 to 25,000 feet below the earth's surface. It does not require a well costing $100,000 to $1 million to determine whether it is there at all. The other minerals are found near the surface of the earth.

I have listened patiently to the distinguished Senator's argument. I am trying to say that the much maligned 27½ percent depletion allowance does what I think all America wants; and that is, to make us self-sufficient in oil. It will be remembered that when the Suez Canal was closed we had to open our wells and produce enough to supply the free world.

I think it is a good investment to continue to develop our oil reserves, because we do not know when the war may grow hotter in Berlin, or whether we may have more trouble in Laos, or whether we may face another blowup in the Middle East.

Mr. PROXMIRE. May I ask the Senator another question?

Mr. MONRONEY. We must have a supply which is not only ample for ourselves but also ample for our allies. In order to have this supply there must be a profit motive, to make it profitable for the producer to drill, generally, nine holes in order to get one that will produce. Then, if he has nine such producing wells, new discovery wells, probably only one will prove to be economically feasible, to return a good investment on a good oil strike. I might repeat what I said earlier today in connection with the Williams amendment:

> And if an oil producer invested $300,000 in a well—and was allowed to recover tax free from the output of that well this same $300,000 of his original investment, he could not normally go out and for $300,000 find another well to replace the one he had depleted by production.
>
> Wildcatting odds are dead against that. On the average, a man drilling rank wildcats—a man going out to find new reserves to replace those being depleted—would have to drill nine exploratory wells to find one that even qualified as a producer. But even at that, his one producing well out of nine would—if typical—turn out to be a financial failure. Under the prevailing odds, only about 3 percent of all the new-field wildcat wells drilled are ultimately successful—producing oil or gas or both in quantities deemed sufficient to turn a profit. Ninety-seven percent of all new-field wildcat wells are commercial failures.
>
> Therefore, based on industry averages over a period of time, an oil producer who was depleting a well that cost him $300,000 would

have to have not his $300,000 back but—at the very least—32 times that original investment—or $9,600,000—to stand a fighting chance of bucking the mathematical odds and finding replacement reserves.

Giving him $300,000 in tax deductions would be little better than giving him nothing. It would be the same as telling him to go out of business because—unless he had a very sensational and remarkable stroke of luck—he just wouldn't be able to find a new wildcat well if allowed no more of a deduction than his investment in a well that was depleting.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. MONRONEY. I yield to my distinguished colleague.

Mr. TOWER. Would not the effect of the amendment proposed by the distinguished Senator from Illinois be to penalize success, to discourage the pursuit of success? Is not the pursuit of success that which has built the great industrial empire of our country? Should we penalize success?

Mr. MONRONEY. The Senator is exactly correct in stating the position which has been taken.

It is said, in effect, "The more successful and the more erudite are the geologists, the more carefully they plan the wildcatting and the exploration, the more we will cut them off, because the allowance is wrong. We must not allow a reward for success in finding oil." We are not asking that anything special be done for finding oil, but we think it is at least entitled to the same depletion allowance everybody else gets.

I cannot see any logic in saying that well A, which produces a commodity called oil, shall be allowed a 27½-percent depletion allowance—but never more than 50 percent of net, I remind Senators, on each well—and well B, because somebody else owns it, because the producer might make $83,000 a year net on the production of $1 million worth of oil gross, shall get a 21-percent depletion allowance on identical oil.

Is that the way to write tax legislation? I do not think so. We are singling out the oil industry, and making a target of it. I do not know why it is considered to be so evil, compared to other minerals. No other minerals have strings tied to the amount of gross income which can be produced—from a coal mine, a sulfur mine, a bauxite mine, or a borate mine.

Mr. DOUGLAS. Mr. President, will my good friend yield?

Mr. MONRONEY. I yield.

Mr. DOUGLAS. I should be perfectly willing to accept an amendment from the Senator to reduce the depletion allowances in the case of other minerals and to say that the depletion allowance shall not exceed 21 percent for the amounts from $1 million to $5 million and 15 percent for the amounts over $5 million. If the Senator will propose that, I will accept it.

Mr. MONRONEY. I do not intend to propose it.

Mr. DOUGLAS. Of course the Senator does not intend to propose it.

Mr. MONRONEY. I don't apologize for refusing to legislate in total ignorance of the problems of those industries. I think the 27½-percent depletion allowance has delivered what it was intended to deliver, which is an adequate supply of oil for peace or war.

Today we are asked to cut down the allowance, though we are faced with threats around the world. I think such action would be foolish and irresponsible.

Mr. DOUGLAS. I say to my good friend, if he will yield, that, of course, the Senator understands that once the depletion allowance was provided for oil the pressure began for depletion allowances for sulfur and other minerals, partly to protect the oil depletion allowance and to bring in more allies, and partly because, with oil producers getting to the trough, other producers wanted to get there, too.

This is the greatest source of abuse, because more than $2 billion of the $3 billion we lose through the depletion allowance goes to the oil industry. Less than $1 billion goes to all other minerals combined.

If the Senator wants to mete out the same treatment to other minerals as I would mete out to oil, I should be delighted to accept the amendment.

Mr. MONRONEY. I say to the Senator that I know as little about sulfur and some of the other minerals as I believe some of my colleagues know about oil.

Certainly I do not feel that it is a proper time, during one night, without any hearings as to the effect of the proposal, to drive a knife into the one thing which has kept a big industry solvent, moving ahead, and finding new sources of oil while, above all, maintaining the price of gasoline, which is the principal product, at what it was in the year 1920, exclusive of all the excise taxes that have been levied since that time.

I think this is a pretty good record. I think it is a record of a great American industry under a proved system of trying its dead level best to find the product we need and always to maintain an adequate supply.

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

Mr. MONRONEY. I yield briefly. I should like to close in a moment.

Mr. CARROLL. I say to the Senator from Oklahoma that I think he is one of the experts in the field of our domestic oil industry. If my memory serves me correctly, the depletion allowance was enacted into a statute in 1926.

Mr. MONRONEY. That is my understanding.

Mr. CARROLL. The purpose of the statute initially was to aid in regard to exploration for oil in this country; does the Senator agree?

Mr. MONRONEY. It was to help develop an adequate supply of oil. It was also a means to have a uniform cost system to compensate for the exhaustion of a natural resource. What we are talking about is the resource which is discovered. As it is exhausted it cannot be produced the second time. The 27½-percent depletion allowance helps pay the cost of finding a replacement.

Mr. CARROLL. Basically, would not the Senator agree that the original purpose was to stimulate the exploration for oil, for the purpose which the able Senator from Oklahoma indicated, to help produce a domestic oil industry which could meet the needs of the Nation?

Mr. MONRONEY. That is correct.

Mr. CARROLL. I agree with that statement by the Senator from Oklahoma. I must confess that I disagree with some of my colleagues.

I think the President of the United States said at one time, in 1960, that there were about 108 commodities which had some type of this sort of support, and he intended to review them.

In 1932, in 1935, in 1937, in 1938, and in 1939, when we began to move into the foreign fields, the initial concept of the depletion allowance had nothing to do with other than the exploration for domestic oil. Today we know that in Saudi Arabia, in Venezuela, and in other foreign countries the depletion allowance is being given to American oil companies operating in these areas.

I do not want to interfere with the Senator's presentation, because I agree with the basic premise about the need for developing, for exploring, strengthening a domestic oil industry in this Nation.

The question occurred to me about what we should do when we allow a depletion allowance, which was never contemplated in the original statute, to Saudi Arabia or to Venezuela, and we learn that great financial benefits are going to giant American oil companies who operate the major fields, and that oil is flowing into the United States, interfering and retarding our domestic oil economy?

Does the Senator want to go into that field?

Mr. MONRONEY. That is another matter. Briefly, the rearrangement of the contract makes depletion of little significance, because of the treatment of the royalty as a tax which is deductible. Therefore, as I understand the situation, very few of the Middle Eastern producers even consider the depletion allowance.

Mr. CARROLL. Mr. President, will the Senator yield further?

Mr. MONRONEY. I should like to conclude, but I yield.

Mr. CARROLL. I do not wish to interfere with the presentation by the Senator from Oklahoma, but I suggest that those contracts were negotiated with the support of the State Department. In Saudi Arabia, for example, the contract was set up by royal decree. The taxes paid to Saudi Arabia are offset under a statute, passed in 1918.

I do not wish to demean the presentation by the Senator from Oklahoma. We face a problem. I do not think we can solve it in a short time. We ought to examine the whole program, and consider whether we should limit the depletion allowance to the continental limits of the United States.

I believe I am correct in saying that the Senator from Oklahoma and the junior Senator from Colorado and some other Senators have asked the administration to control the importation of oil into this country because it affects our domestic industry.

Mr. MONRONEY. The Senator has been very helpful in that connection, as I have tried to be. Generally the amendment would have little or no effect in the areas of the Middle East, where the trouble occurs. It would have the effect of shutting down exploration and eliminating the development of fields in the United States. If the amendment were agreed to, we would be playing a dangerous game. We can pay the cost of finding oil in one of two ways. We would either pay it by providing an adequate depletion allowance, and the 27½ percent allowance has proved itself successful—or if we reduce that amount we will make up the difference in the price of gasoline and oil.

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

Mr. MONRONEY. I yield.

Mr. CARROLL. Would it not be better for the Senate, the administration, and the Department of the Treasury to begin to direct its attention, first, to the question of the advisability of allowing depletion allowance to American oil companies operating in foreign countries, especially when the Department of State is or has been negotiating agreements in these areas and, second, to the question whether or not we should consider a modification of the offset tax statute?

Mr. MONRONEY. That would be a subject of legislation.

In closing I wish to again point out that the latest issue of the Chase National report entitled "Petroleum Industry—1961" indicates that in 1961 the 33 largest oil companies in the United States spent on exploration and development in the United States alone over $100 million more than they retained for depreciation or amortization combined. I yield the floor.

Mr. MANSFIELD. Mr. President, it was my intention to move to table the amendment of the Senator from Illinois as I moved to table the amendment of the Senator from Delaware [Mr. WILLIAMS]. However, I notified the Senator from Delaware ahead of time that such was my intention. I did not so notify the Senator from Illinois.

Will the Senator from Illinois do me the courtesy of stating whether he prefers to have a motion to table made or would he prefer an outright vote on his amendment?

Mr. DOUGLAS. I would personally prefer to have an outright vote on the amendment.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. CARROLL. Mr. President, unless there has been a time limitation on debate, which the Senator from Colorado has not heard about, I wish to make a few remarks on the amendment.

Again we are confronted with one of the most complex economic taxing situations with which the Senate is called upon to consider. We cannot adequately discuss such an important proposal in 1 or 2 hours. The Senator from Oklahoma has made a very fine presentation from the standpoint of the domestic oil industry. He discussed the taxes paid by the major companies in our country.

I point out to the Senate that, according to my memory, one company in one taxing year in Saudi Arabia received a depletion allowance of $120 million.

I previously have had the privilege of discussing, this evening, this subject with the senior Senator from Illinois [Mr. DOUGLAS]. Senator O'Mahoney and I had sponsored an amendment which would cut off depletion allowances at the continental limits of the United States. We found that there was no support for the measure among members of the independent oil industry because they were greatly influenced by the major companies who have enormous financial holdings in other countries.

Recently I received information that some of the small refiners and distributors are beginning to understand the consequences of the great outpouring of wealth resulting from foreign oil production into their own marketing and distributing situation here in the United States. The able Senator from Illinois and I discussed the subject only an hour or so ago. I had hoped that the Senator from Illinois would not ask for a record vote on the present proposal. Why? We cannot adequately discuss the question in an hour or two of debate on the sort of bill before the Senate.

The vote can only be symbolic. It will not be a definitive vote at all. The subject is one which should be discussed for hours in the Senate, and not in connection with this type of a tax bill. Many of us come from oil producing States and have voted consistently for the principle involved in the amendment of the Senator from Illinois. There has been no adequate time for preparation for this debate. We cannot discuss intelligently an issue of such importance in an hour and a half or 2 hours. The question involves a vital part of the economy of our Nation. It involves a Presidential pledge on which we have not received any information, guidance, direction, or leadership.

In this short time Senators who come from oil-producing States should not be faced with the contention that we should have a depletion allowance only for the domestic oil industry. This amendment does not do justice to those of us who represent independent producers and distributors, and those who have deep convictions on the issue, and who seek a more timely and equitable solution.

No experienced Senator believes that the amendment will be approved. Unless we contemplate extended debate, the issue should not have been brought before the Senate in connection with the pending bill at the present time. Only with extensive debate, with statistics pro and con brought forth, should we be required to vote on the merits. The able Senator from Illinois [Mr. DOUGLAS] has presented the issue hour after hour, day after day, and year after year, and we have been defeated time after time. This late hour, when we are not prepared, when we are all tired, is not the proper time to discuss this important amendment. No one has really discussed the issue as it should have been debated.

I had hoped that we would not have a vote on the merits of the issue.

I should like to make my position clear. I should like to have had the opportunity to present the original O'Mahoney amendment, which would provide a larger gross income than the senior Senator from Illinois requested. Also I should like to have had the opportunity to present the original O'Mahoney-Carroll amendment limiting the oil depletion allowance to the continental limits of the United States. I should like then to have debated the question because these amendments have never been fully debated in the Senate. I repeat I was hopeful that we would not have to vote on the merits of the amendment at the present time. Therefore I shall vote "no" for the first time on the general issue.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN (when his name was called). On this vote I have a pair with the senior Senator from Mississippi [Mr. EASTLAND]. If he were present and voting he would vote "nay." If I were at liberty to vote I would vote "yea." I therefore withhold my vote.

Mr. LONG of Missouri (when his name was called). On this vote I have a pair with the senior Senator from Tennessee [Mr. KEFAUVER]. If he were present and voting he would vote "yea." If I were at liberty to vote I would vote "nay." I withhold my vote.

Mr. WILLIAMS of Delaware (when his name was called). On this vote I have a pair with the Senator from Kentucky [Mr. MORTON]. If he were present and voting he would vote "nay." If I were at liberty to vote I would vote "yea." I withhold my vote.

Mr. WILLIAMS of New Jersey (when his name was called). On this vote I have a pair with the Senator from Minnesota [Mr. HUMPHREY]. If he were present and voting he would vote "yea." If I were at liberty to vote I would vote "nay." I withhold my vote.

Mr. COOPER (when his name was called). On this vote I have a pair with the senior Senator from New York [Mr. JAVITS]. If he were present and voting he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. MANSFIELD. I announce that the Senator from Virginia [Mr. BYRD], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alabama [Mr. HILL], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Tennessee [Mr. KEFAUVER], the Senator from Washington [Mr. MAGNUSON], the Senator from Oregon [Mrs. NEUBERGER], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

I further announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], the Senator from Wyoming [Mr. HICKEY], and the Senator from Missouri [Mr. SYMINGTON] are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. BIBLE], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Wyoming [Mr. HICKEY], the Senator from Alabama [Mr. HILL], and the Senator from Florida [Mr. SMATHERS] would each vote "nay."

On this vote, the Senator from Oregon [Mrs. NEUBERGER] is paired with the Senator from New Mexico [Mr. ANDERSON]. If present and voting, the Senator from Oregon would vote "yea," and the Senator from New Mexico would vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. BOTTUM], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MORTON], and the Senator from New Hampshire [Mr. MURPHY] are necessarily absent.

The Senator from New York [Mr. JAVITS], the Senator from Vermont [Mr. PROUTY], and the Senator from Wisconsin [Mr. WILEY] are detained on official business.

If present and voting, the Senator from South Dakota [Mr. BOTTUM], the Senator from Arizona [Mr. GOLDWATER], and the Senator from New Hampshire [Mr. MURPHY] would each vote "nay."

The respective pairs of the Senator from New York [Mr. JAVITS] and that of the Senator from Kentucky [Mr. MORTON] have been previously announced.

On this vote, the Senator from Wisconsin [Mr. WILEY] is paired with the Senator from Utah [Mr. BENNETT]. If present and voting, the Senator from Wisconsin would vote "yea," and the Senator from Utah would vote "nay."

The result was announced—yeas 23, nays 50, as follows:

[No. 246 Leg.]

YEAS—23

Aiken	Jackson	Pastore
Case	Keating	Pell
Church	Lausche	Proxmire
Clark	Long, Hawaii	Scott
Dodd	McCarthy	Smith, Mass.
Douglas	McNamara	Smith, Maine
Gore	Morse	Young, Ohio
Hart	Muskie	

NAYS—50

Allott	Fong	Metcalf
Bartlett	Fulbright	Miller
Beall	Gruening	Monroney
Boggs	Hartke	Moss
Burdick	Hayden	Mundt
Bush	Hickenlooper	Pearson
Butler	Holland	Randolph
Byrd, W. Va.	Hruska	Robertson
Cannon	Johnston	Saltonstall
Capehart	Jordan, N.C.	Sparkman
Carlson	Jordan, Idaho	Stennis
Carroll	Kerr	Talmadge
Cotton	Kuchel	Thurmond
Curtis	Long, La.	Tower
Dirksen	Mansfield	Yarborough
Ellender	McClellan	Young, N. Dak.
Engle	McGee	

NOT VOTING—27

Anderson	Cooper	Humphrey
Bennett	Eastland	Javits
Bible	Ervin	Kefauver
Bottum	Goldwater	Long, Mo.
Byrd, Va.	Hickey	Magnuson
Chavez	Hill	Morton
Murphy	Russell	Wiley
Neuberger	Smathers	Williams, N.J.
Prouty	Symington	Williams, Del.

So Mr. DOUGLAS' amendment was rejected.

Mr. MANSFIELD. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORE. Mr. President, it is said of the hill people from whence I come that they are given to starting fights and never want to quit. I fear I am afflicted with the latter limitation; but surely after many days and at this hour it is time to bring this fight to a close.

I have five more amendments, each of which I believe is of considerable importance, although they are not major amendments. With the cooperation of the distinguished senior Senator from Oklahoma, I should like to handle them for the RECORD in pro forma fashion. I shall make the briefest sort of statement with respect to each amendment and the reason why I believe the provision which is sought to be amended is unwise. I trust the distinguished Senator from Oklahoma will be equally brief.

Before calling up my amendments, let me say that this has been a long and grueling fight on a very technical and complicated subject. I have offered several amendments. I have not won any of them. Generally in the press the group with which I have been associated is referred to as a "little band."

But, Mr. President, with respect to three of the amendments offered by the junior Senator from Tennessee, a majority of the Democratic Members of the Senate voted for the amendments. I take some consolation from that fact. I take some consolation, too, because as a result of the lengthy efforts which I have devoted to attempting to remove preferential tax treatment of income earned abroad, some provisions are in the bill which might not otherwise have been there.

I hope that one benefit especially, may flow from this fight. I hope the Kennedy administration has learned a lesson and that it will profit from that lesson, the lesson being that a constant string of compromises and accommodations with respect to one special interest after another can lead to no good end; and if such a procedure is repeated with the big tax bill expected next year or the year after, a fiasco will be the result.

Mr. President, with those brief remarks, I call up my amendment designated "8–27–62–E."

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 180, beginning with line 23, it is proposed to strike out all through line 5 on page 181 and insert the following:

(1) an amount equal to the sum of the deficits in earnings and profits for prior taxable years beginning after December 31, 1962; exceeds.

Mr. GORE. Mr. President, this amendment would strike from the bill a committee amendment which gives the privilege of carrying forward certain losses from a date prior to the effective date of the bill. This confers a benefit retroactively. I feel certain the the distinguished Senator from Oklahoma feels differently. That ends my statement.

Mr. KERR. Mr. President, I am opposed to the amendment of the Senator from Tennessee. The report of the committee fully justifies the inclusion of the language in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was rejected.

Mr. GORE. Mr. President, I call up my amendment designated "8–27–62—C."

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 187, line 5, it is proposed to strike out "30 percent" and insert "20 percent".

On page 187, line 10, strike out "70 percent" and insert "80 percent".

Mr. GORE. Mr. President, the committee bill raises the de minimis rule from 20 percent, as contained in the House bill, to 30 percent. I am unable to justify it.

Mr. KERR. Mr. President, the amendment should not be adopted. I hope it will be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was rejected.

Mr. GORE. Mr. President, I call up my amendment designated "8–27–62—J."

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 31, line 20, it is proposed to strike out "7 percent" and insert "14 percent."

On page 32, line 6, after "equal to" insert "two times."

On page 32, line 21, after "equal to" insert "two times."

Mr. GORE. Mr. President, as the bill came to the Finance Committee from the House, the investment credit constituted a direct and specific subsidy with no offset whatsoever. The Finance Committee, in an effort to remove some of the elements of subsidy from the provision, decided that the basis of the equipment and machinery involved should be reduced by a percentage equal to the amount of the tax credit.

In this connection, the committee report states that this adjustment is made because "your committee believes that there is no reason to allow the taxpayer depreciation with respect to the portion of the investment in effect paid for by the Government." This would indicate that the committee felt that it was removing the subsidy element from this proposition. Such is not the case.

If all elements of subsidy were to be removed, it would be necessary to reduce the basis by double the amount of the credit allowed. As the bill now stands, a tax credit is being equated with a deduction from income otherwise taxable. In the case of the larger corporations, where most of this tax credit will be received, since the tax rate is approximately 50 percent, any adjustment on the deduction side must be equal to

twice the adjustment on the credit side if matters are to be equalized. As the bill now stands, the manufacturer recovers only $93 in depreciation after having received a refund of $7 from the Government on the purchase of a $100 piece of equipment. But this $7 refund is worth a deduction of $14 and the manufacturer is getting, in effect, depreciation of 107 percent of the cost of his new equipment.

There is another rather cute thing about this basis adjustment and the effect of the bill's restrictions on the amount of credit which can be taken. There is in the bill a little noticed "heads I win, tails I cannot possibly lose" item which provides that if, due to the various restrictions in the bill, all the credit is not finally taken, the amount left over will be used in the following year as a deduction.

I am unable to support this provision of the bill; and the amendment I offer would correct it.

Mr. KERR. Mr. President, the only effect of this amendment would be to eliminate the investment credit benefits.

This amendment was fought out in the committee, and the Senator lost there.

Now the Senator has offered the amendment on the floor. I hope the amendment will be defeated again.

Mr. GORE. Mr. President, I regret to ask the Senator from Oklahoma to repeat his statement; I could not hear it.

Mr. KERR. I said the effect of the amendment would be to eliminate from the bill the investment credit. The amendment would substitute for the investment credit accelerated depreciation. The fight on the amendment has been made many times in the committee, and the Senator has lost there. Now the amendment has been offered on the floor; and I hope it will be rejected.

Mr. GORE. I did not offer the amendment in the committee; perhaps I should have.

But if that is the only justification the Senator from Oklahoma can offer for opposing the amendment, I am ready for the vote on the amendment to be taken.

Mr. KERR. The Senator asked me to be brief, and asked me to comment on the amendments which I thought unwise, and I have done so.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was rejected.

Mr. GORE. Mr. President, I call up my amendment identified as "8-27-62—K."

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 29, in lines 4 and 5, it is proposed to restore the matter stricken through, and to strike out the matter printed in italic.

Mr. GORE. Mr. President, I think this amendment relates to a particularly unmeritorious provision of the bill. The bill allows lessors to shift the tax credit to the lessee. This will open up many possibilities for abuse. A lessee will be able greatly to improve his cash position in this way. This is somewhat like the situation when an automobile salesman allows such a high trade-in and such a low downpayment that the purchaser walks out with a new car, plus cash.

There is here another small gimmick which would be overlooked in a casual reading of the bill. The taxpayer who manufactures or constructs a facility and then leases it would be entitled to the credit based on his cost or other basis. If the credit is shifted to the lessee, however, the credit can be figured on the basis of fair market value. The lessor, of course, gets a higher rent. Here again is a fertile field for abuse. Who is going to determine what the fair market value is for an IBM machine which never is sold, but only is leased?

The entire leasing provision ought to be stricken from the bill.

Mr. President, I hope that even at this late hour—I will not hope that the provision will be stricken out.

Mr. KERR. Mr. President, since the Senator from Tennessee does not hope the provision will be stricken out, I share his "no hope," and I ask that the amendment be rejected.

Mr. GORE. Mr. President, my hope for improvements in the bill has been dulled in the past week. But I have tried.

Mr. KERR. Mr. President, the language included is for the benefit of the lessor. Under the House version of the bill, which the amendment seeks to restore, the tax credit would be available to the lessor if the lessee were in the business of leasing.

Our provision is that it is to be available to the lessor, regardless of whether the lessee is in that business. The benefit to the lessor is the same under either language.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was rejected.

Mr. GORE. Mr. President, I call up my amendment identified as "8-27-62—L".

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 24, in line 12, beginning with "The", it is proposed to strike out all through line 21, and to insert the following:

> The preceding sentence shall not apply to nonlodging commercial facilities which are available to persons not using the lodging facilities on the same basis as they are available to persons using the lodging facilities.

Mr. GORE. Mr. President, when President Kennedy first suggested the investment credit, I was favorably impressed with the suggestion. The purpose of the proposal at that time was to provide an incentive, to give a reward, to one who improved his production facilities over and beyond what had been planned, over and beyond the depreciation allowance, and to give a reward or credit for so doing. But somewhere in this contorted process of tax legislation, the entire purpose was subverted, and the investment credit was turned into nothing more than tax reduction for the particular types of industry which can take advantage of it. Even as recently as the date of the publication of the committee report, we find the statement:

> The objective of the investment credit is to encourage modernization and expansion of the Nation's productive facilities and thereby improve the economic potential of the country, with a resultant increase in job opportunities and betterment of our competitive position in the world economy.

I wonder how it is going to improve our competitive position in the world economy or how it is going to improve our industrial production facilities to give the investment credit to motels and hotels. The inclusion of equipment for transient motels and hotels is, in my opinion, wholly without justification; there is no connection whatsoever with exports, and only a very remote connection with the betterment of the domestic economy.

I ask that this amendment be adopted.

Mr. KERR. Mr. President, the bill does not give the investment credit to a hotel or a motel, but gives it to the facilities and equipment used to furnish them.

Mr. GORE. I said equipment for motels and hotels.

Mr. KERR. I heard the Senator from Tennessee.

The facilities and equipment of a commercial motel or a commercial hotel are just like the facilities in a commercial factory or those in any other kind of a commercial industrial establishment or business. The building itself is not eligible in either event. The facilities whereby the building is utilized in the trade or business of the occupant are eligible for the credit; and the same is true with reference to the commercial business of furnishing facilities and equipment in a motel or a hotel.

Mr. GORE. Does the Senator say that improves our production facilities and helps our position in world trade?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was rejected.

Mr. McCARTHY. Mr. President, I intend to offer an amendment which relates to the section of the bill which deals with foreign trusts. I think it will be in order to send the amendment to the desk and have it read; and then we can discuss possible modifications.

The PRESIDING OFFICER. The amendment of the Senator from Minnesota will be stated.

Mr. McCARTHY. Mr. President, the purpose of the amendment is to ease the adjustments which will be called for on the part of some of those who hold interest in foreign trusts. I am hopeful that some more time will be allowed——

The PRESIDING OFFICER. Does the Senator from Minnesota wish to have his amendment read?

Mr. McCARTHY. Yes.

The PRESIDING OFFICER. Very well; the amendment will be read.

The CHIEF CLERK. On page 90, at the end of line 17, after the word "made," it is proposed to add "more than 12 months."

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. McCARTHY. Mr. President, the effect of the amendment would be to allow foreign trusts approximately 12 months from the date of enactment of this act to make whatever adjustments would be necessary. In my opinion, this is not an unreasonable time, since, so far as I can determine, those who established trusts of this kind did so in good faith and under existing law. I think quite suddenly and without adequate warning to have the law changed could be in many cases unfair. I would suggest that perhaps allowing them a year to change their plans and make the necessary adjustments and liquidation, or whatever may be needed, would be a reasonable proposition.

Mr. KERR. Mr. President, I would be agreeable—and I have talked this matter over with the Treasury—to accepting the Senator's amendment if he would make the end of the grace period December 31, 1962.

Under the bill, the termination of the tax haven privilege with reference to all direct income operations is as of that date, and I see no reason why a tax haven for trust fund income should be treated any differently.

If the Senator wanted to accept the suggestion on the same basis, which would be to insert the language "after December 31, 1962" instead of his language, which is 1 year from the date, or 6 months from the date, I would recommend the adoption of the amendment. Otherwise I would have to go to some extent to show why the amendment otherwise would be unjustified.

Mr. McCARTHY. I thank the Senator from Oklahoma. I have grave doubt as to whether a termination date of December 31, 1962, would be particularly helpful, but I am satisfied that, under the circumstances which exist here, we are not likely to be able to discuss a technical amendment at any great length. I am sorry it was not discussed in the committee.

So, under the circumstances, I am glad to accept the suggestion expressed by the Senator from Oklahoma, and express the hope that it may be helpful to those affected by the tax provisions in the bill.

Mr. KERR. It gives them 4 months, or nearly so. I believe it is adequate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota, as modified by the amendment of the Senator from Oklahoma.

The amendment, as amended, was agreed to.

Mr. McCARTHY. Mr. President, I call up my amendment identified as "8–28–62—H" and ask to have it stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Minnesota will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McCARTHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. McCARTHY is as follows:

On page 391, between lines 21 and 22, insert the following new section:

"SEC. 27. FOREIGN SUBSIDIARIES MANUFACTURING PRODUCTS ABROAD FOR SALE IN THE UNITED STATES.

"(a) Subpart B of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to foreign corporations) is amended by adding at the end thereof the following new section:

"'SEC. 885. CERTAIN FOREIGN CORPORATIONS PRODUCING PRODUCTS FOR SALE IN THE UNITED STATES.

"'(a) GENERAL RULE.—In the case of any foreign corporation to which this section applies for the taxable year—

"'(1) for purposes of section 882(a), such foreign corporation shall be deemed to be engaged in trade or business within the United States, and

"'(2) for purposes of this subtitle, the gross income of such corporation from sources within the United States shall be deemed to be not less than the gross income which it derives for such taxable year from the sale of competitive articles which are sold by it for ultimate use, consumption, or disposition in the United States.

"'(b) CORPORATIONS TO WHICH SECTION APPLIES.—This section shall apply to a foreign corporation for the taxable year if—

"'(1) at any time during such taxable year, one or more domestic corporations own, directly or through one or more other corporations, 10 percent or more of the outstanding stock of such corporation, and

"'(2) for such taxable year, such foreign corporation derives 10 percent or more of its gross income from the sale of competitive articles which are sold by it for ultimate use, consumption, or disposition in the United States.

"'(c) COMPETITIVE ARTICLE DEFINED.—For purposes of this section, the term "competitive article" means any article mined, processed, or manufactured outside the United States for a foreign corporation which is the same as or similar to any article mined, processed, or manufactured in the United States (or formerly mined, processed, or manufactured in the United States) by—

"'(1) any domestic corporation which, with respect to such foreign corporation, is described in subsection (b)(1); or

"'(2) any subsidiary of a domestic corporation described in paragraph (1) of this subsection.'

"(d) The table of sections for such subpart B is amended by adding at the end thereof the following:

"'Sec. 885. Certain foreign corporations producing products for sale in the United States.'

"(e) The amendments made by this section shall apply to taxable years beginning after December 31, 1962."

On page 391, line 22, strike out "27" and insert in lieu thereof "28".

Mr. McCARTHY. Mr. President, this amendment relates to the section of the bill which deals with taxation of foreign income.

In my opinion, as the bill now stands, the efforts to tax that income fall somewhat short in one particular—in the case where a domestic corporation buys abroad from its foreign subsidiary for its own use in the United States, the subsidiary pays no tax to the United States on the profits of the foreign subsidiary. The parent corporation is taxed in the United States on the profits from its domestic operations, but any tax on sale of the commodity, such as iron ore, abroad is lost to the United States. At least, the subsidiary would be subject only to the taxes of its host country.

H.R. 10650, as it stands, would affect that transaction only, as I see it, where intermediaries might be used, namely, if a Canadian subsidiary sold to a Panamanian subsidiary and the latter resold to the United States. The profits of the Panamanian subsidiary would probably be considered as tax-haven profits.

This amendment seeks to stop the loss of tax dollars to the United States from the type of transaction described by extending the definition of section 882 foreign corporations to include foreign corporations 10 percent or more of whose stock is owned by one or more U.S. corporations which derive 10 percent or more of their gross income "from the sale of competitive articles * * * for ultimate use, consumption, or disposition in the United States"—that is, articles which are in competition with articles used in the United States.

The amendment aims to tax at regular U.S. corporation rates the profits from a transaction overseas between that subsidiary and the U.S. parent corporation.

It is estimated that an amount equal to the taxes owed would be repatriated to the parent corporation. In any event, the tax would be paid by the parent corporations.

This amendment raises the same problems and has the same limitations as those existing under and connected with section 12 of H.R. 10650, but I believe is consistent with the purposes indicated by the Senate in adopting the committee amendments up to this time. It would serve as a clarification and, in a sense, put these profits in the open, where they could be taxed by the U.S. Government. In any case, it would eliminate unfair competition in iron ore, and I assume copper, and other raw materials, as well as finished products, but particularly semifinished products which are brought back by parent corporations and are in competition with similar products produced in the United States.

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

Mr. McCARTHY. I yield.

Mr. HUMPHREY. Many Senators have been concerned about the foreign subsidiary and parent corporation arrangement as it affects American employment and domestic industry. The amendment offered by my colleague is one that gets to the root of the trouble. We have this situation in our own State, and I assume it may be true in other States. The extractive industries, such as a mining company, may go into a country that offers unusual tax incentives. There is an incentive by the Canadian Government of 3 years with no taxes. Such a corporation sets up a subsidiary in Canada, ships ore into the United States, into the American domestic market, for the American domestic blast furnaces for the American steel industry, and displaces American industry, American miners, and American workers.

The Senator's amendment simply provides that if the purpose of a foreign

subsidiary is not that of developing an international market for a commodity produced under an American name by an American corporation, but if the purpose is to displace American products in the American market with foreign commodities or foreign products owned or controlled or manufactured or extracted by an American company, and if such company's interest is over 10 percent of the total volume of the business, it shall be taxed at American corporate rates.

This is the amendment that really gets at some of the problems some Representatives and Senators have been concerned about, namely, taking jobs from American workers and displacing American workers and American production.

The same thing happened with respect to the radio industry, wherein radio parts that are manufactured in another country are brought into this country under the terms of the American corporation's foreign subsidiary, and are placed on the American market after they are packaged into a unit called a radio, and sold on the American market, with little or no American labor or plant involved.

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

Mr. HUMPHREY. I yield.

Mr. MORSE. Would not the Senator say that was also true of music records and true of movies?

Mr. HUMPHREY. The Senator is correct.

Mr. MORSE. The Senator was present when we had a discussion of that problem this afternoon, when we tried to correct the wrong being done to those industries. We did not seem to get anywhere. The fact that we did not would not prevent me from supporting the amendment, but I suspect the Senator will have the same "hatchet job" done on him that we received earlier this afternoon.

Mr. HUMPHREY. I was hoping that the still hours of the night might somehow subdue passions, that reason might move to the forefront, and that the Senate of the United States might vote for the amendment offered by my distinguished colleague. I think the Senate may do so. Therefore, I yield the floor.

Mr. MORSE. The Senator is the greatest optimist I have ever seen.

Mr. KERR. Mr. President, will the junior Senator from Minnesota yield for a question?

Mr. McCARTHY. I yield to the Senator.

Mr. KERR. Would the effect of the proposal, in the event of the occurrence of the conditions set forth to make it applicable, be to tax the entire income of the foreign corporation?

Mr. McCARTHY. It would relate only to the portion derived from the sale of competitive articles for use in the United States.

Mr. KERR. Mr. President, I am entirely in sympathy with the purpose of the amendment. I seriously doubt its efficacy now. If the intent of the author is to make only that part of the business of the foreign corporation which consists of its shipping material into the United States applicable——

Mr. McCARTHY. That is the intention.

Mr. KERR. Then I would be willing to take it to conference, with the statement to the distinguished Senator that if counsel should advise us in conference it is unconstitutional I am sure it would be taken out. If the effect of it would be to trigger the applicability of the section to the entire income of the foreign corporation, when only 10 percent of it was owned in the United States and only 10 percent of its business was done in the United States, I think it should be amended to make it clear that the Senator intends the amendment to apply only to the percentage owned and the business done in the United States.

Mr. McCARTHY. It was my intention to have it apply only to that profit or gain as a result of business which was done with the parent company in the United States.

Mr. KERR. For goods or merchandise or materials shipped into the United States?

Mr. McCARTHY. Shipped into the United States.

Mr. KERR. And to the extent to which ownership in the foreign corporation is vested in citizens of the United States?

Mr. McCARTHY. The Senator is correct.

Mr. KERR. With that understanding, I have no objection to taking the amendment to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Minnesota.

The amendment was agreed to.

TAX STATUS OF COOPERATIVES

Mr. HUMPHREY. Mr. President, I should like to ask my colleague a question. Does the bill before us in any way deal with the question as to whether income to a cooperative is taxable to the cooperative where that income arises from its doing business with the Government? Am I correct that under the bill, as under existing law, that income is not taxable?

Mr. McCARTHY. The bill specifically provides that such income is not taxable to the cooperative if it is in turn distributed in accordance with the statutory requirements. This is also made clear in the general explanation of the pertinent provisions contained in the Finance Committee's general report—subparagraph 4 of heading C of section XVII.

Mr. HUMPHREY. I thank my colleague.

Mr. McCARTHY. I have one more question to ask the Senator from Oklahoma with regard to a section which is not in the bill. It pertains to the tax status of cooperatives.

A question has been raised concerning whether cooperatives are doing business "with" or "for" the Government. There are conflicting opinions and conflicting judgments with respect to this. My own opinion is that the two words should be used interchangeably, without distinction.

This does not refer to language in the particular bill before the Senate, I say to the Senator from Oklahoma, but it relates to an existing practice under tax laws, as to which there is some confusion and contradiction. I think it might be a good time to try to clarify the record, that business done either with or for the Government, on the part of cooperatives, should be treated in the same way under the tax laws. Does the Senator sustain that opinion on my part?

Mr. KERR. Mr. President, it is my impression that the bill would not in any way change the existing statute in that regard.

Mr. McCARTHY. The Senator is correct.

Mr. KERR. The statute specifically permits cooperatives to do business with the Government without endangering their tax-exempt status. That is the understanding of the Senator from Oklahoma.

Mr. McCARTHY. Yes. The question does not relate to anything in the bill.

Mr. KERR. Nothing in the bill would change that tax-exempt status.

Mr. McCARTHY. I am not concerned about what is in the bill in that regard. There have been some conflicting interpretations by the Internal Revenue Service with respect to the two words. In my judgment the history, experience, and application of the language of the existing code is such that business which may be described as business done "with" or "for" the Government is the same.

Mr. KERR. Mr. President, I would not want to speak authoritatively with reference to existing law. I have a distinct opinion about it. I have a positive conviction that nothing in the bill would lose to a cooperative any tax-exempt status it now has under existing law.

Mr. McCARTHY. Mr. President, I ask unanimous consent that a statement relating to the tax status of farmers' cooperatives may be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT RELATING TO THE TAX STATUS OF FARMERS' COOPERATIVES

The language, "Business done for the United States," first appeared in the Revenue Act of 1934. At that time, cooperatives only acted as occasional agents for the Government and the present modern system of agricultural price stabilization through which grain is purchased and sold by the CCC had not yet evolved. During the course of the consideration of the 1934 act, Senator Norris offered an amendment on the floor of the Senate which he said was identical to one he had earlier introduced in 1932. The Senate agreed to the amendment which read as follows:

"Neither shall any such association be denied exemption because it does not keep ledger accounts with nonmembers of the business it transacts with such nonmembers, but it shall only be required to keep such records of its business with nonmembers as will show the actual business done with such nonmembers; and provided further, that the profits, if any, derived from its business with nonmembers in any fiscal year of the association shall be allowed to remain in the business of the association, subject to the right of such nonmember to use his share upon a patronage basis to qualify as a member of the association." (78 CONGRESSIONAL RECORD, p. 6488, 73d

Cong. 2d sess., Apr. 12, 1934, Senate print. H.R. 10236, May 9, 1932, pp. 75–76, 72d Cong., 1st sess.)

The amendment had a further proviso which appeared in the printed version of the Senate bill and read as follows: "*Provided further*, That business done for the Federal Government or any of its agencies shall not be considered as nonmember business within the meaning of this Act." (Senate print, H.R. 7835, 73d Cong., 2d sess., 1934.)

In view of the fact that the House version of the bill did not contain any portion of the Norris amendment, the issue was among those resolved in conference. The result was the language of the statute which is operative today. Representative Hill, in explaining the intent of the conference committee in adopting the provision, made the following statement:

"This amendment provided that farmers' cooperative marketing or purchasing associations (1) need not keep ledger accounts of transactions with nonmembers and (2) that the members may purchase memberships with profit from nonmember business and (3) business done with the Federal Government or its agencies shall not be considered nonmember business. The Senate withdrew the first two points upon advice from the Treasury that they were already covered by existing law. On the third point, we got the Senate conferees to agree to put in a provision to the effect that business done with the United States or any of its agencies shall be disregarded in determining whether the association is entitled to exemption from income taxes." (78 CONGRESSIONAL RECORD, p. 7831, 73rd Cong., 2d sess., May 1, 1934.)

Thus, in the only written legislative history of section 521(b)(5) of the 1954 code and its predecessors, it is clear that the Congress provided that business done with the Federal Government or its agencies shall not be considered nonmember business and, therefore, would not threaten the tax-exempt status of cooperatives.

The Internal Revenue Service also recognizes that an exempt cooperative may do business with the United States. Section 522 of the current code exempts from taxable income amounts allocated to patrons that are not derived from "patronage." This section applies only where an organization has an exempt status under section 521. The regulations adopted by the Internal Revenue Service under the 1954 code state in section 1.522–2(d), that "business done with the United States shall constitute income not derived from patronage." It is, therefore, clear that the regulations assume that a cooperative that does business with the U.S. Government can have a tax exemption status under section 521.

Regulations issued by the Internal Revenue Service under prior codes contained similar provisions. (See Regulations 118, sec. 39.101(12)–1.) This regulation was acknowledged and followed by the Internal Revenue Service in a Revenue ruling in 1955 given with respect to the allocation of cooperative income resulting from the handling and storage of Commodity Credit Corporation grain (Revenue ruling 55–591 Cumulative Bulletin 1955–2, p. 553). On page 554 of the bulletin there appears the following statement:

"Section 39.101(12)–1(c) of Regulations 118, provides that business done with the United States or any of its agencies shall be disregarded in determining the right to exemption under section 101(12) (now 521 (b)(5)) of the code."

Furthermore, I note in a copy of the President's tax message to the Congress, dated May 3, 1961, submitted by the Secretary of the Treasury, Douglas Dillon, at hearings conducted by the Committee on Ways and Means of the House of Representatives, that there is included an exhibit VII on cooperatives. In that exhibit, there is a discussion of farmers' marketing and purchasing cooperatives described in section 521 of the code. The discussion in the exhibit states (p. 271, U.S. Government Printing Office) that "income derived from business with the United State and distributed or allocated to its patrons on a patronage basis" is an allowable deduction from taxable income.

Under these circumstances it is clear that farmers' cooperatives that do business with the United States or any of its agencies do not jeopardize their otherwise tax-exempt status under section 521 of the Internal Revenue Code of 1954.

UNREASONABLE ACCUMULATION OF PROFITS—AMENDMENTS OF SENATOR M'CARTHY

Mr. McCARTHY. Mr. President, I ask unanimous consent that a statement of mine with reference to the amendment which I offered on last Friday may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MCCARTHY

I wish to refer to the statement read into the RECORD last Friday by Mr. MANSFIELD. I do not know the source of the memorandum, but it contains a great many errors which I wish to bring to the attention of the Senate. I think the Senate is entitled to the sources.

First, the memorandum states that it would cut between $80 million and $100 million. The staff estimate as to the effect of all of section 12 is $50 million. This is the entire section 12 without my amendment. Then, Mr. MANSFIELD states that he was informed (I am at a loss to know where this information came from) that my amendment might reduce the revenue to $2 million. This seems clearly erroneous. The staff of the Joint Committee on Internal Revenue Taxation estimates the revenue reasonably expected to result from my amendment would be in the neighborhood of $30 million.

ONE NEEDS HIS OWN TRAINED STATISTICIAN

We have in the present law a special tax on domestic corporations who accumulate earnings beyond the reasonable needs of the business. If my amendment is effective, it would encourage foreign subsidiary corporations owned by Americans to distribute their earnings to their shareholders and in this way would add to the revenue. Judging from experience with existing law, I believe my amendment would go a long way toward forcing foreign corporations owned by Americans to distribute their earnings rather than accumulate them beyond the reasonable needs of the business for purposes of avoiding the American tax.

The memorandum declared my amendment would injure our balance of payments. Testimony before the Finance Committee and also in the report of the special committee of businessmen, appointed by the President, argued that the proposals of the pending bill will hurt our balance of payments.

John L. Connolly, general counsel of the Minnesota Mining & Manufacturing Co., pointed out in his testimony: "First of all, a substantial part of the investment is normally spent promptly for capital goods and services in the United States with a consequent return of dollars. Secondly, once the foreign activity is established, it usually generates additional exports in the form of materials, parts, services, and even finished goods. These exports in all likelihood would not occur if the investment had not been made. Thus, the short-run improvement that could be expected in our balance of payments from the proposed legislation is more apparent than real."

Pharmaceutical Manufacturers Association, Kenneth C. Royall: "A survey of 10 of the members of the association, which included several of the larger members, over the years 1956 through 1960 shows that the total inflow from these subsidiaries to the United States was $618,600,000 and the total outflow was only $78,500,000. Total inflow exceeded total outflow by $540,100,000, or by a ratio of 7.9 to 1. Official Government statistics show that over the same period the average annual exports of all medicinal and pharmaceutical products were $273 million and the average annual imports were only $16 million. These amounts of inflow will be no longer available if this legislation is enacted, because there will be no foreign market."

Joy Manufacturing Co., J. D. A. Morrow: "[Joy's figures show] total 11-year parent company investment and advances to foreign subsidiaries of about $7,400,000 and dollar expenses of operating abroad of $11 million, a total dollar outflow of, roughly, $18,400,000. Please note that these outlays brought $170 million of exports in those 11 years, 60 percent of which went to or through our manufacturing subsidiaries abroad. In addition, payments of $7 to $8 million of engineering fees, royalties, dividends, and interest make a total net favorable balance of payments of $159 million, and the U.S. Treasury collected more than $16 million of income tax from these operations. Is that showing unfavorable to the U.S. balance of payments? Gentlemen, hundreds of other American foreign subsidiaries would present similar results if you had their figures."

Corn Products Co., Warren S. Adams: "We are a food company primarily. This means we operate on a low margin of profit. There is in Europe tremendous competition in the food industry. We have to meet this competition and we have to invest money in Europe in the process. For us the Treasury's proposals mean not that we shall no longer invest money in Europe, but that a significant part of the investments we will have to make to protect our present investment there will be more costly than heretofore, and, thus, return less profit for remission to the United States."

Sprague International, Ltd., William M. Adams: "As a business grows, more working capital is needed. At present, this is supplied from foreign sources in local currency that has been earned abroad. Therefore, if this bill passes, the parent company will have to supply this capital from U.S. dollars instead of foreign currency and, furthermore, will have to earn twice as many dollars as would be the case using local funds. How this is going to help the balance of payments is beyond me."

International Flavors & Fragrances, Inc., Eugene P. Grisanti: "If this bill is passed in its present form, it would seem far more likely that such funds, in the majority of cases, would be reinvested, and not necessarily in new business in the less developed countries where so many uncertain risks are faced, but in the expanding businesses where the existing subsidies are already situated. Funds which may well have been kept idle until the time was ripe to make a decision whether to repatriate them as dividends, or to invest in plant expansion, will be forced into plant expansion instead before the end of the tax year to escape the tax."

Pfizer International, John J. Powers, Jr.: "Treasury's ultimate position is that while direct investment abroad may, in the long run, have a beneficial effect on the balance of payments, it nevertheless has a short-term deleterious effect. This is simply a recognition of the obvious fact that a dollar invested today will not be returned until some time later. Thus, it follows that if the dollar were not invested, then during the period it would have taken to return it, the balance of payments would be favorably

affected. But later, when the return from dividends, interest, exports, royalties, fees, etc., would have exceeded the prior capital outflow, the balance of payments would be permanently hurt, and to a far greater extent than it had been temporarily helped. The farmer who is short of money can cut down on his expenses by not planting seed in the spring. But where will he stand at harvesttime?

"Pfizer International has really been in operation only since 1951. In the period 1951 through 1961, Pfizer operations have resulted in a net inflow to the United States of about $250 million. This is despite the fact that it is only in very recent years that we have begun to pay substantial dividends to the parent company. Prior to that time, nearly all profits earned abroad were reinvested. In the face of such a circumstance we nevertheless achieved this highly favorable balance because we exported almost $200 million of U.S.-made goods to Pfizer foreign subsidiaries and because we brought home some $50 million additional in dividends, royalties, fees, etc. Now that our investment has begun to mature and large dividends are being brought home, we are returning dollars at an annual rate of $45 million. The parent company has not made any direct dollar investments abroad in many years and it is the policy of our company that its international organization provide its own financing."

Abbott Laboratories, George R. Cain: "For the 5-year period 1956–60, Abbott's exports from the United States exceeded its imports by $50 million. Abbott also received from abroad loan repayments, dividends, and miscellaneous income in the amount of $9.3 million—making a total inflow into this country of $59.3 million.

"The total outflow of dollars from this country by Abbott, during the same 5-year period, in foreign investments and loans was only $2.2 million. This gives our country a net favorable balance of $57.1 million.

"Proponents of the foreign income provisions apparently would not understand how a company can expand its foreign operations rapidly with so little outflow of U.S. capital. The answer is simple and well known to all who have had international business experience. Foreign plants can be and are financed very heavily through the use of locally borrowed money in addition to earnings retained overseas. Thus, we increase our base upon which greater future earnings are built. These earnings redound to the benefit of the U.S. Treasury as well as our own shareholders. This is accomplished without a heavy immediate or long-term drain on U.S. capital."

The Machinery & Allied Products Institute: "The establishment of a permanent operation overseas serves to facilitate contacts with foreign customers and by giving the company greater local identification helps to penetrate markets which could not otherwise be penetrated. One company, with which we are familiar, prior to 1959 was unable to penetrate the German market to any significant degree. However, as a result of establishing an operation in that country it now finds that its German customers are not only willing to purchase from the German-based company unit, but, because of the greater local identification established by the U.S. company as a result of its German subsidiary, it now exports in substantial volume to the German market products which it is manufacturing in the United States."

Caterpillar Tractor Co., E. W. Kuhlman: "I wish to point out that none of our products are completely manufactured abroad; many of the components such as engines, transmissions, etc., are produced in our U.S. factories and exported to our foreign plants. If we did not manufacture the product abroad, the sale would not be made at all by us but would be made by a foreign competitor who would use no components manufactured in the United States. The significance of this factor is emphasized when it is noted that (1) our exports to Great Britain in 1960 were over four times those of 1950, the year before our subsidiary began operation; (2) our exports to Australia in 1960 were more than double those of 1955 when the subsidiary was formed; (3) our exports to Brazil in 1960 were more than five times those of 1956 when manufacturing began in Brazil."

Clark Equipment Co., Walter E. Schirmer: "Exports from Clark's U.S. plants in 1955 totaled $5,500,000, consisting solely of machines and parts to distributors. By 1961 such sales had increased to $12,500,000 and in addition component sales to manufacturing affiliates rose to $10,500,000, for a total of $23 million exports from U.S. plants, excluding Canada. While total sales of Clark products overseas in 1955 therefore was only $5,500,000, in 1961 this figure has risen to $88 million, including $65 million sales of the Clark manufacturing affiliates.

"Clark's program of investment overseas, far from being detrimental to our U.S. investment program, has produced profits for the parent company both in the sale of components, never sold overseas prior to this program, plus finished machines and service parts. This has provided increased funds in the parent company available for investment in facilities and working capital. During the years 1955–56 the parent company has invested in U.S. facilities and working capital $40 million, and in that same period has invested in Clark International $1 million.

"Thus, it is obvious that the Clark foreign investment program has not in any way interfered with our domestic program, nor has it to any material extent affected our balance of payments, since the earnings of the parent company on its oversea exports has exceeded by far the original investment in International."

International Economic Policy Association: "A large part of the world is not available as a market for increased U.S. exports for cash. The Iron Curtain countries are a limited potential market for trade expansion for the near-term future; the underdeveloped countries do not have the resources to buy for cash—they are candidates for gifts and grants and so-called long range, 50-year low or no-interest loans. Therefore, our chance of selling more for cash is restricted pretty much to industrialized Western European countries and Japan.

"The question is: Can these exports be increased, not on a reciprocal, but a one-way unilateral basis by between $3 and $4 billion? With regard to Common Market countries, this much expansion in exports would require an almost 100-percent increase over 1961 products of $3.6 billion. In total the immediate prospects do not come up to our needs.

"It is not, therefore, enough merely to exhort American industry to export more, because it is not likely that the total solution of the balance-of-payments problem will lie in this field in the foreseeable future, as long as we have to maintain our Military Establishment and the scale of foreign aid expenditures at levels comparable to the present. Therefore, the United States must think in terms of a long-range solution to this problem by expanding U.S. earning power abroad in ways other than exports; namely, the sale of services, and the making of investments on which growing amounts of earnings may accrue and, in the normal course of business activity, be repatriated to the United States. The encouragement of private investments abroad in hard, convertible currency countries must become one of the major objectives of the administration, with as much emphasis as given to the encouragement of exports."

It was charged in the memorandum that my amendment would encourage the flight of American capital. This is imaginative writing. My amendment would have taxed earnings of controlled foreign corporations accumulated beyond the reasonable needs of the business. Amounts distributed by such corporations to their American shareholders would never have been touched by my amendment. Foreign subsidiaries which were returning a reasonable portion of their earnings to the shareholders in the form of dividends would have no reason to fear my amendment, and there was nothing in my amendment which would have encouraged American capital to go abroad. Quite the contrary, my amendment would have encouraged controlled foreign corporations to send their profits home.

This would obviously have aided our balance of payments. Now this involves another unproved and unprovable statement made in the memorandum; that is, that my amendment would be more likely to injure than to aid our balance of payments. The philosophy of the committee bill is that foreign investment should be discouraged because of its adverse effect on the balance of payments. Applying this philosophy to my amendment, the majority leader concludes that because my amendment does not discourage foreign investment it hurts our balance of payments. The adverse effects of foreign investments, if there are any, result from a time lag of 10 to 15 years between the export of capital and the return on the investment. If we look at the record of investment outflow and dividend and interest inflow for the last 12 years of the postwar period, we find that foreign investment has not adversely affected the balance of payments. Except for the year 1957, the inflow to the United States of dividends and interest on U.S. investments abroad has exceeded the outflow from direct investments in every year since 1950. Over the 12-year period, 1950–61, inclusive, the net inflow to the United States—the excess over what went out by way of investment—has been $8,552 million. This is shown in the attached table prepared from data of the Department of Commerce:

SCHEDULE A

Dollar inflow and outflow to direct investment—Companies abroad, 1950–61

[In millions of dollars]

Year	Direct investment outflow	Dividends and interest inflow	Net inflow
1950	621	1,294	673
1951	528	1,492	964
1952	850	1,419	569
1953	751	1,442	721
1954	664	1,725	1,061
1955	779	1,912	1,133
1956	1,859	2,120	261
1957	2,482	2,249	−233
1958	1,181	2,140	959
1959	1,372	2,206	834
1960	1,694	2,348	654
1961	1,681	2,637	956
Total	14,432	22,984	8,552

NOTES

1. Data from Department of Commerce.
2. Covers all areas and all activities, branches, and subsidiaries.
3. Unremitted branch earnings are included in both "Outflow" and "Inflow" columns.

Cutting back on growth abroad would result in my judgment not in greater U.S. production but in lower, curtailed U.S. production as a result of lower levels of exports to support the oversea subsidiary operations. It will not improve the balance of payments. My amendment, on the other hand, by not encouraging foreign investments for legitimate purposes would lead only to increased U.S. production to support the oversea subsidiary operations and this

increased production would favorably help our balance of payments.

The memorandum also states that the only tax haven income which would be covered by my amendment is income from insurance of U.S. risks. When asked to define a tax haven, Secretary Dillon told the Finance Committee that it was any country where tax rates were lower than U.S. tax rates and pointed to such countries as Liéchtenstein and Switzerland. However, businessmen have made it plain that taxes is only one reason a particular country is chosen as the proper place to incorporate a foreign subsidiary. Switzerland, for example, is a financial and banking center. It has a large pool of skilled workers and language is no barrier. It has a stable government and stable currency. Its low tax rates apply primarily in the case of income derived from outside of Switzerland. American business which creates a Swiss subsidiary to handle its European affairs by virtue of their Swiss subsidiary pay a lower foreign tax than if a separate subsidiary was established in each European nation in which the corporation conducted business. The lower Swiss tax in such cases makes it possible for the subsidiary to send more earnings back to the United States because the foreign taxes have been reduced. Let me make that point clear. The U.S. tax is not avoided in any case.

Only foreign taxes are reduced by means of Swiss subsidiaries. We should not attempt to call Switzerland a tax haven country merely because it taxes earnings from business done in other European nations at a lower rate. If corporations take advantage of the low Swiss tax and accumulate unreasonably large amounts of earnings in a Swiss subsidiary, my amendment would have taxed those earnings just as effectively as the committee amendment. My amendment would not arbitrarily tax income of a Swiss subsidiary which was returning to its U.S. parent a substantial part of its earnings. The committee amendment might impose an arbitrary tax in such a case.

Another difficulty about such a concept is that it would encourage foreign countries with low rates of tax to raise their rates to equal ours.

The Treasury amendment sponsored by Senator KERR helps only well-established corporations and not the new or growing ones. It is much like the undistributed profits tax which was proposed in 1936 and repealed in 1941. Senator BYRD, at that time, opposed the proposal because it operated to give the old-established firms an unfair competitive advantage over the new and growing company because the new company could not distribute its earnings and stay in business, and had no surplus out of which to pay dividends. He stated in connection with the adoption of the conference report on the 1936 act:

"In other words, what this bill does is to entrench the great monopolies of the country, and protect them from competition. I make that statement without fear of successful contradiction, because the bill would leave the surpluses as they now are, and prevent any other company from establishing a surplus except by the sale of stock."

The committee amendments will encourage monopolies by giving relief only to large well-established businesses abroad and denying relief to the new struggling and growing companies. It will limit our investments abroad to old and established firms and freeze out new and growing ones.

The memorandum says that my amendment did not tax holding companies or service income. This is clearly erroneous. I do not see how he could make such a statement since my amendment would apply to both holding company income and service income which is not used for legitimate business operations.

As a matter of fact, my amendment on page 7, at line 21, creates a specific presumption that property held by a holding or investment company is accumulated beyond the reasonable needs of the business. Moreover, my amendment on page 4, beginning at line 2, makes it plain that service income from any source is included within the definition of earnings improperly accumulated.

The memorandum also stated that my amendment would encourage the retention of capital abroad to provide jobs for foreign workers. This is unproved. It was to the end the weight of testimony at the Finance Committee hearings that foreign investments actually increased American employment in order to provide needed equipment, services, and know-how to support foreign operations. Excerpts from statements of witnesses appearing before the Finance Committee who commented on this unemployment issue, follow:

Abbott Laboratories, George R. Cain: "Our foreign investments were not made at the expense of our exports from here, but rather because exports became difficult or impossible, due to trade barriers, tariffs, legislation, or abritrary decisions protecting or favoring local industry in foreign nations, establishment of local factories and plants by competitors, etc.

"It is significant that Abbott Laboratories International Co.'s employment in Chicago, as a result of its increased capital investments abroad, rose 50 percent in the last 6 years.

"In addition, a large number of scientists, engineers, technicians, researchers, manufacturing and other personnel are now employed by our parent company, as a result of our expansion in foreign markets made possible by our increased investment abroad."

Joy Manufacturing Co., J. D. A. Morrow: "In 1961, nearly one-third of the employment at (Joy Manufacturing Co.'s) Franklin (Pa.) plant was derived from exports. The Treasury asserts that such cases are exceptional and not representative and should be disregarded. Here again the Treasury ignores the facts published by the Department of Commerce, which show that in 1960, out of $18,900 million of exports, $2,695 million went to or through foreign manufacturing subsidiaries of American corporations. These are not the statements of private industry, these are the Federal Government's own official figures."

Goodyear Tire & Rubber Co., Frank T. Quirk: "When domestic rubber companies decide to locate a plant overseas, most of the equipment for the plant is shipped from the United States and is made by American workmen. If further expansion is curtailed by revised tax provisions, not only will the foreign markets be taken over by foreign competitors but the machinery, equipment and supplies for their new plants will come from foreign producers.

"There are numerous examples in our industry where the annual purchases of replacement equipment, machinery, materials, and supplies to keep foreign plants operating represent more than the total U.S. dollar investment of the same company overseas. These purchases, amounting to many millions of dollars each year, provide work for thousands of people and are advantageous in our balance of payments position."

Pfizer International, John J. Powers, Jr.: "The key point is that those who say that direct business investment abroad results in the export of American jobs are simply wrong. For this to be true it would have to be demonstrated either (a) that such investments have been made for the purpose of producing goods for import into the United States in lieu of producing such goods in the United States, or (b) that U.S. direct investments abroad have produced goods for sale abroad which could otherwise have been exported from the United States. The facts do not significantly bear out either of these assumptions.

"For example, U.S.-owned manufacturing subsidiaries in Canada and Western Europe had total sales in 1960 of $18.2 billion, of which only $259 million was exported to the United States. It is preposterous to charge that U.S. business has gone abroad for the specific purpose of reselling a grand total of 1.4 percent of production back to the United States, or that $259 million of such imports from foreign subsidiaries could cause any appreciable loss of jobs. Using ratios (jobs to sales) cited by labor officials, $259 million of sales could mean about 30,000 jobs, or less than one-twentieth of 1 percent of the U.S. labor force—assuming that the goods represented by the $259 million would have been made in the United States. But this assumption is not justified, for if U.S.-owned subsidiaries in Western Europe and Canada had not sold these goods to the U.S. market, it is more likely that other foreign companies would have supplied the goods, not U.S. factories. Thus it is hardly justifiable to say that the imports cited were responsible for the loss of any significant number of jobs.

"While U.S.-owned facilities in Canada and Western Europe were selling $259 million of goods to the United States in 1960, these same subsidiaries were importing $1,246 million worth of goods from the United States. Using the same job-sales ratio, these exports from the United States created more than 100,000 jobs."

Harnischfeger Corp., Frederick Salditt: "Prior to our active participation in oversea investment and manufacture, the exports of our U.S. products lagged slightly behind the exports of our entire industry. With the advent of our active oversea manufacturing program, which involved the use of foreign subsidiaries, reinvested profits, etc., our exports of U.S.-produced goods have steadily increased. They have substantially surpassed the average for our industry, which has generally been on a steady to downward trend.

"This means that we have been able to maintain rather steady domestic employment and even increase it in some of our plants during a most difficult and competitive period. As a matter of fact, during the years 1958–59, we probably would not even have been a domestic taxpayer at all had it not been for our foreign operations and exports, and we most certainly would have employed fewer people in the States of Wisconsin and Michigan."

Sprague International Ltd., William M. Adams: "Although the argument has been propounded that the establishment of foreign manufacturing facilities exports U.S. jobs, our experience indicates that this is just not so. I cannot give you an accurate figure of how many of our employees owe their jobs directly to export, but I can tell you that, in many instances, lines would have been temporarily closed or restricted and employees laid off had it not been for the welcome export business that came into the house at that time.

"In other words, foreign plants stimulate exports and exports tend to cancel out the slack periods that occur from time to time domestically."

Pfaudler Permutit, Inc., William G. von Berg: "It is a peculiar fact that in spite of our buildup of foreign manufacturing facilities, our export volume from plants in the United States did not suffer, but instead showed a tendency to increase. The reasons are several.

"First of all, we supply frit, a compound used in the glassing operation, to our foreign plants.

"Second, special parts and components are supplied from our U.S. plants to our factories abroad. As the activity of our foreign

plants increase, so do our exports of frit, parts, and components.

"Third, as oversea customers became accustomed to our equipment and familiar with its advantages, orders for equipment in sizes which could not be made by our foreign plants were transferred to the larger U.S. plants for manufacture."

Dresser Industries, Inc., H. Neil Mallon: "In addition to the significant contribution which Dresser's export trade has made to our country's balance of payments, during the past 3 years over 5,800,000 man-hours of factory labor have been devoted to the production of export products. There is no way to determine how many additional man-hours of labor are attributable to our export trade as the result of our purchase of materials, components, supplies and services from others. If we assume that our suppliers' sales require the same number of man-hours per dollar as did ours, this additional employment due to our exports amounted to 3,405,000 man-hours.

"We hope to continue to do our part in improving the balance of payments and in promoting full employment. We cannot do so unless we will be competitive with foreign manufacturers who already enjoy many advantages not available to us."

Dow Chemical Co., Tyrone Gillespie: "More than 3,000 people and more than $70 million in investment in the United States are directly employed in support of our foreign activities. Should foreign investment become unprofitable due to Government intervention, our judgment is that 60 percent or more of the domestic people and facilities supporting foreign sales might be idled."

Minnesota Mining & Manufacturing Co., Robert H. Tucker: "In 1951, a handful of our people handled our total foreign business. Today, 1 out of every 10 employees in our domestic factories owe their jobs to the fact that we are exporting products to foreign countries. Our experience is that exports are increased by foreign manufacturing operations. Business begets business."

I am of the opinion that the committee bill which actually discourages foreign investment would be far more harmful to American employment than would my amendment.

The memorandum also stated that if my amendment were adopted the conferees would be unable to agree on the committee version of the foreign income provisions but would have to adopt the much harsher rules of the House bill. This again is not correct. If my amendment were adopted the conferees would have much more latitude within which to reach an agreement than if the Fowler-Kerr amendment were adopted by the Senate. Furthermore, the Treasury has given no assurance that it will support the Fowler-Kerr amendment of the House bill, and we would be forced to take either the Treasury-Kerr amendment or the House bill.

TAX STATUS OF COOPERATIVES

Mr. HUMPHREY. Mr. President, will the Senator from Oklahoma yield to me for a question?

Mr. KERR. I yield.

Mr. HUMPHREY. I have discussed this question with my colleague from Minnesota, because he is on the Finance Committee, but I would like to ask the Senator in charge of the bill the same question.

My colleague and I, in discussing this subject, agreed that the bill specifically provides that income which may be derived from a cooperative doing business with the Government is not taxable to the cooperative, if it is in turn distributed in accordance with statutory requirements.

Mr. KERR. My understanding is that that is to be merely a continuation of existing law.

Mr. HUMPHREY. The Senator is correct. I wished the RECORD to be clear that there was nothing in the bill which modified that interpretation or that principle of law.

Mr. KERR. That was the effect of the answer by the Senator from Oklahoma a while ago to the Senator's colleague. The answer is the same now.

Mr. HUMPHREY. So far as we are concerned on this question, then, the bill before the Senate would not tax at different rates the income derived by a cooperative, let us say, and grain storage with the Government, as compared to other income?

Mr. KERR. The Senator is talking about a contract with the Government?

Mr. HUMPHREY. That is correct.

Mr. KERR. That is the understanding of the Senator from Oklahoma.

Mr. HUMPHREY. There is no change?

Mr. KERR. That is correct.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DIRKSEN. Mr. President, I offer my amendment 8–23–62—H.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The CHIEF CLERK. On page 391, between lines 21 and 22, it is proposed to insert the following new section:

SEC. 27. INCREASE IN AMOUNT INDIVIDUALS ARE PERMITTED TO EARN WHILE RECEIVING BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT.

(a) INCREASE IN AMOUNT.—(1) Paragraphs (1), (3), and (4)(B) of subsection (f) of section 203 of the Social Security Act are each amended by striking out "$100" where ever it appears therein and inserting in lieu thereof "$150".

(2) The first sentence of paragraph (3) of such subsection (f) is amended by striking out ", except that of the first $500 of such excess (or all of such excess if it is less than $500), an amount equal to one-half thereof shall not be included".

(b) CONFORMING AMENDMENT.—Paragraph (1)(A) of subsection (h) of section 203 of such Act is amended by striking out "$100" and inserting in lieu thereof "$150".

(c) EFFECTIVE DATE.—The amendments made by the preceding subsections of this section shall be effective, in the case of any individual, with respect to taxable years of such individual ending after 1962.

On page 391, line 22, it is proposed to strike out "27" and to insert in lieu thereof "28".

Mr. DIRKSEN. Mr. President, I shall be brief. This is actually a social security amendment. It deals with the amount of income or earnings a beneficiary under social security might have before there would be a reduction in benefits. Under existing law it is $1,200, plus the formula which takes it up to $1,750.

This would simplify it by making it $1,800 without any reduction in benefits.

I think the amendment needs no further discussion, because it has been before the Senate for a period of years.

Mr. KERR. Mr. President, I am entirely in sympathy with the objective of the distinguished Senator from Illinois. There have been times when the Senator from Oklahoma has been the author of a similar amendment. However, that was in connection with a social security bill, and in connection with action by the Congress to provide the additional revenue for the trust fund which would be required to meet the cost of benefits which would accrue to the beneficiaries by reason of the amendment.

Much as I sympathize with the objective of the distinguished Senator, I know he is aware that adoption of the amendment would cost hundreds of millions of dollars a year, which money would be taken out of the old-age and survivors' insurance or social security trust fund. I urge the Senator not to press the amendment to this bill, but to wait until a social security bill is before the Senate, when we shall also be considering raising additional revenue to meet the costs of additional benefits which would be created by the amendment.

Mr. DIRKSEN. Mr. President, if I may interpret that as some reasonable assurance that the distinguished Senator from Oklahoma will give attention to it when a social security bill is before the Finance Committee, I shall be glad to withdraw the amendment.

Mr. KERR. I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. KERR. I assure the Senator that his requests will at any time be acted upon in the manner of a response for hearings and consideration.

Mr. DIRKSEN. I thank the Senator.

Mr. YARBOROUGH. Mr. President, I offer an amendment which I send to the desk, and ask unanimous consent that the reading be waived, and that it be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 134, beginning with line 24, it is proposed to strike out all through line 25 on page 135 and insert the following:

"(a) GENERAL RULE.—In the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary or his delegate that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period shall not be included in gross income and shall be exempt from taxation under this chapter. The amount excluded under this subsection for any taxable year shall be computed by applying the special rules contained in subsection (c)."

On page 137, strike out lines 4 through 13 and insert the following: "a daily basis at an annual rate of $12,000."

On page 139, line 2, strike out "subsection (a)(1)" and insert "subsection (a)".

On page 139, strike out lines 3 through 20.

On page 140, beginning with line 16, strike out all through line 3 on page 141 and insert the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1962."

Mr. YARBOROUGH. Mr. President, the amendment is identical with the

amendment of the Senator from Tennessee [Mr. GORE] designated "8–27–62—G," which would limit the amount of earned foreign income that could be deducted, except that on page 2, line 7 of the Gore amendment, at which point $6,000 is provided, I have stricken out that amount and inserted $12,000.

The bill provides that $20,000 of earned income may be excluded from the individual's tax base if he lives abroad for up to 3 years. However, in the case of a U.S. citizen who has been a bona fide resident of a foreign country for more than 3 years, the total amount which may be excluded under the bill in this case is to be $35,000 per year instead of $20,000. The Gore amendment would reduce the earned income exclusion to $6,000 for a taxpayer who lives abroad for an uninterrupted period which includes an entire taxable year. My amendment is identical to the Gore amendment except that the amount excluded is $12,000.

I hope the distinguished Senator from Oklahoma will give serious consideration to accepting the amendment. Since I live in close proximity to Mexico, I know that people earning a dollar abroad have a higher purchasing power than people in the United States. That is true in many countries. It seems to me that $1,000 a month is a pretty generous exemption from taxation to allow a person.

I invite attention to the fact that that is twice as much as was contained in the amendment proposed by the distinguished Senator from Tennessee. He would have exempted $6,000 a year, or $500 a month. The proposed amendment would exempt $1,000 a month, or $12,000 a year, of the year's income. I have no further statement to make. I hope that the distinguished Senator from Oklahoma will give serious consideration to accepting the amendment.

Mr. KERR. Mr. President, I do not believe I completely understand the Senator's amendment. I cannot tell whether he would limit the exemption of an American citizen in the status of a nonresident of the country, and therefore a resident of the country in which he is working for a period of time under 18 months, under 2 years, or beyond 2 years. Would his amendment apply equally with reference to the American citizen who is a bona fide resident of another country for any period of time, or is there a period of time in which the bona fide resident in another country could acquire a different position under the amendment of the Senator from Texas than would be the case, let us say, for the first year of his absence from this country and being a bona fide resident of another country?

Mr. YARBOROUGH. The amendment is identical with the Gore amendment except that on page 2, line 7, of the Gore amendment, where he has provided an exemption of $6,000, I have provided $12,000, and that would be in lieu of the language in the bill on page 137. It would strike out lines 4 through 13.

Mr. KERR. Lines 4 through 13 on what page?

Mr. YARBOROUGH. Page 137 of the bill. That would include either an American temporarily abroad who had been a bona fide resident of a foreign country or countries for less than 3 years, in which case he would have a $20,000 exemption under the terms of the bill and would also apply to the American who had been abroad for more than 3 years, in which case the first $35,000 would be exempt under the bill. The amendment would treat them all in the same category and exempt the first $12,000 of earnings abroad from any taxation here. I have taken the language of the proposed Gore amendment, which would reduce the exempt amount to $6,000 and, in my amendment, changed the figure to $12,000.

It would apply to both categories. It would apply to the U.S. citizen who had been a bona fide resident of a foreign country or countries more than 3 years, and it would apply to the U.S. citizen who had been a bona fide resident of a foreign country or countries less than 3 years. It would have to be a bona fide resident in each case. But under the bill as drawn if a man goes overseas and stays 18 months—a little over a year—he receives an exemption on the first $20,000 of his income—if he stays there less than 3 years. If he stays more than 3 years, the exemption applies to the first $35,000 of his income. The amendment would roll it into one exemption. He would have $1,000 a month free and clear of any taxes whatsoever before he started on the usual deductions and exemptions that would apply to the rest of us living in this country. He would get $1,000 per month scot free under that provision.

Mr. KERR. Mr. President, I must oppose the amendment. I tried to make clear this afternoon in the discussion of the amendment of the Senator from Tennessee [Mr. GORE] that the bill would not give to bona fide residents of our country working in a foreign country a benefit which they do not have under existing law. The bill would take from bona fide residents working in foreign countries benefits which they now have under the law. Under existing law, if an American citizen is a bona fide resident of another country for 18 months, the income he earns in that country, regardless of what the amount may be, is not subject to tax by our Government. We changed that. We provided that his exemption cannot exceed $20,000 for the first 3 years, and cannot exceed $35,000 thereafter.

As I stated today, the provision applies to American citizens who go abroad to operate businesses owned in this country and which are in competition with other local businesses in the respective foreign countries.

I referred to the fact that Sears, Roebuck was such a company. When a company such as Singer Sewing Machine Co., or whatever the American industry may be, goes into Buenos Aires, Rio de Janeiro, or any other city in Latin America, Central America, Western Europe, or anywhere else in the world, it must compete with local distributors, not only of products produced or manufactured in the countries in which the business is located, but also against the products shipped in from any other industrial or productive area in the world. Senators can well understand that if an American company putting a place of business in South America could get a local national to operate it as efficiently as an American citizen trained here and going there could do, it would get the local national to do it because the local national of equal ability would receive a more favorable response and be a more effective operator of the business than someone sent from the United States.

But such is not the case. The only reason trained American citizens are sent abroad is that thereby the business can be more efficiently and successfully operated.

But to encourage American citizens to take their families and move away from these shores and go into a foreign country and handle a business there requires enough incentive to persuade them to leave the more favorable environment that exists here at home.

I ask Senators to remember that American businesses in the main sell in foreign countries products which are manufactured or produced in the United States. Every time they sell a dollar's worth of such products they help to insure jobs to American workmen here at home in our factories and our mills and in other productive facilities. Therefore, it is not only to the advantage of the American company doing business there to have the most efficient management possible, but it is also to the advantage of the economic condition of this country. It is to the advantage of the industry that produces products which are made here by labor paid here in communities supported by such industries which ship into other countries, to sell there. The profits come back to this country and are taxed by our Government, whereby dollars come to our country, which help our balance of payments.

The only reason that American companies pay the salaries they do and offer the incentive that they do is that they must do it to keep the kind of talent which can efficiently compete in foreign countries with others who are doing business there.

If we did not permit these exemptions, the corporations would have to pay much higher salaries. Citizens who are residents of foreign countries must pay local taxes in those foreign countries. To the extent that they pay local taxes on their salaries in foreign countries they receive a credit here against the tax liability that they would have on the same salary.

Therefore, the Senator's amendment would defeat its own purpose by impairing the efficiency of operation of the American companies doing business in foreign countries, with the advantage to our own economy and our own labor force that I have outlined.

Therefore I hope the Senator's amendment will be disapproved, as was the amendment of the Senator from Tennessee.

Mr. YARBOROUGH. Mr. President, I should like Senators to recall from their own experience how many people have come to their offices from their home States wanting Federal employment, provided they could go overseas. I point to the experience of the Peace

Corps, not to a business activity. I point to young people and to the American spirit which permeates our whole society. Every Senator has had the experience of seeing people from his State asking if they could go to work overseas in a Government job. They want to go overseas.

Business organizations do not have a difficult time recruiting people to go overseas. The very reason that the distinguished Senator from Oklahoma gives as a reason for defeating the amendment is a reason why the amendment ought to be adopted. An American living overseas receives a double tax deduction. He can deduct from his U.S. income tax base the amount of tax he pays to the foreign government. In addition, he can deduct from the tax itself, already computed on a diminished base, a certain percentage of the amount of his foreign tax. Although the tax bill discontinues this double exemption practice for developed countries, the practice is to be continued in the case of underdeveloped countries.

The American living abroad is, as far as taxes are concerned, favored above any other American. He gets all tax exemptions that people get at home, and in addition he gets many special exemptions as well as travel and other expenses. He is in a very favored position.

In addition, the living costs in many countries are very much lower. When we add the $12,000 allowance, he is in an exceedingly favorable position.

I point out that many Americans come back with their earnings saved. Unless they have spent their time in Paris or in Germany, they come back with their savings, especially if they have lived in some of the underdeveloped countries of the world.

We maintain a great Army, a great Navy, a great Air Force, and a strong State Department to protect our people overseas. We have commercial attachés all over the world, consular officers, and consulates general, and embassies. We support these people with the military might of the most powerful nation in the world, and in that way protect investments and protect our personnel. Surely they ought to be willing to pay something for that protection while they earn their income.

I commend the distinguished Senator from Oklahoma. As he has correctly said, under present law such income is all tax free. Limitations of $20,000 and $35,000 have been set. That is a step in the right direction. However, I point out that it is still exceedingly generous if we exempt a thousand dollars a month of that sum, free from income taxation.

I point out further that there is no equity in allowing individual U.S. citizens living abroad, either temporarily or on a more permanent bona fide basis, to pay less taxes than citizens and residents here at home. All benefit from services rendered by both the U.S. Government and the governments of their host countries. All should contribute toward the cost of United States and free world protection. It is particularly inappropriate to allow a phasing in of taxes on fringe benefits.

I hope the distinguished Senator from Oklahoma will accept the amendment. Apparently he will not accept it, and I regret that he cannot do so.

Mr. KERR. I cannot accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas.

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

COMMITTEE MEETINGS DURING SENATE SESSION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Rivers and Harbors Subcommittee of the Committee on Public Works and the Permanent Subcommittee on Investigation of the Committee on Government Operations be authorized to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. Mr. President, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking and Currency may be permitted to meet tomorrow during the session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENGLE. Mr. President, I ask unanimous consent that the Subcommittee on Merchant Marine and Fisheries of the Committee on Commerce be permitted to meet during the session of the Senate tomorrow. I understand that the request has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FEDERAL BUDGET AS AN ECONOMIC DOCUMENT

Mr. HUMPHREY. Mr. President, it took the great depression of the 1930's to teach the American people that the Federal Government has a continuing responsibility for promoting economic growth and stability. They were no longer content with the Government merely playing a passive role in economic affairs. Thus, the severest depression in our history produced numerous reforms designed to strengthen the private economy.

The determination that the Government should use its powers to maintain economic stability was reflected shortly after the close of World War II, in the passage of the Employment Act of 1946. This declared it to be a fundamental national policy for the Federal Government to promote maximum employment, production, and purchasing power. It was hoped and expected that these objectives would be achieved through timely and adequate use of the tools of monetary, fiscal, and debt management policy.

Since the Employment Act was passed, the country has experienced four business recessions—in 1948–49, 1953–54, 1957–58, and 1960–61. They were relatively mild as the history of business cycles goes, and there is no doubt that the institutional reforms of the 1930's have contributed substantially to their mildness. But we were living in a period of the cold war and it was essential that the country marshal all its strength to meet the challenge from the Communist world. Underutilization of material and human resources should be a concern at any time. But for the economy not to measure up to its potentialities as an engine of production when national survival is at stake, surely calls for some soul searching.

I should like to address myself to an important aspect of the problem of the failure of the economy during the past decade to meet the needs of the time. I submit that until we scrap the obsolete accounting procedures of the Federal administrative budget, we will be unable to create the dynamism which one has a right to expect from the leader of the free world.

It may seem rash to maintain that one of the principal roadblocks which has prevented us in the past from facing up to the economic realities, and which, if uncorrected, will continue to do so in the future, is our faulty budgetary accounting procedures. In a democracy, sound information is indispensable for responsible discussion of public policy. When the key document of Government planning, the budget, serves as a poor guide to the Government's impact on the economy because of the failure to reflect the full range of Federal receipts and expenditures, and because of the misleading character of the accounting concepts that are employed, it is not surprising that unsound fiscal decisions are so frequently made.

The Director of the Bureau of the Budget, David E. Bell, has recently described the conventional budget as follows:

> The administrative budget, the set of figures normally discussed in Congress and in the press, is badly incomplete, misleading in thinking, and a confusing conglomeration of different kinds of activities.

The administrative budget is incomplete, because it omits trust funds for social insurance, highways, and other purposes, amounting to about $27 billion a year. It is misleading in timing, because it is based on cash receipts and payments rather than on accrued receipts and payments, the practice followed by modern business corporations. It is a conglomeration of different kinds of activities in counting, for example, loans the same as expenditures, and current outlays for goods and services the same as long-term capital investments.

These and other limitations of the administrative budget for gaging the impact of the Federal Government on the economy are discussed at length in a study released at the beginning of the year by the Joint Economic Committee. This 189-page report entitled "The Federal Budget as an Economic Document,"

which was prepared by Dr. Roy E. Moor, of the committee staff, deserves greater attention than it has thus far received. It contains comprehensive analyses of the effectiveness of budgetary concepts in measuring the economic consequences of Government fiscal policies, and concludes with suggestions for making the budget a more useful economic document.

Whatever our philosophy of the budget may be, we should welcome this unbiased and scholarly effort to reexamine the budget from the point of view of providing more meaningful information on the financial operations of the Federal Government. Let me refer briefly to some of the improvements suggested.

In order to make possible a reasonable appraisal of the realism of the budget figures and of their economic impact, the economic assumptions underlying the revenue estimates should be stated more specifically.

Since the budget totals are made up of different types of estimates—those based on contemplated administrative actions, new legislative proposals, projected changes in the private economy, or other projections of varying degree of uncertainty, it would contribute greatly to a better understanding of the budget document if the different types of estimates were distinguished.

Another improvement would be to incorporate within the budget some of the materials on Government economic impact that are now available only within the various executive agencies.

More adequate information should be supplied on the operations of Government enterprises. These enterprises are frequently shown only by a net surplus or net deficit figure.

The budget contains only annual data. Since economic conditions are constantly changing, many of the estimates made in the annual budget become unrealistic if not misleading soon after they are published. It is suggested that the annual budget issued in January should be followed up by publication of revisions quarterly.

There is surprisingly little cost data in the budget. Such data are presumably available within the various Government agencies and it would be useful to have the information summarized in the budget.

It is suggested that the budgetary time horizon be extended. The data relate generally to a single year. It would be useful in appraising the significance of programs to know the anticipated costs over the project's life and also the estimated benefits expected over at least a reasonable period in the future.

The report closes by emphasizing that the budget document contains little information on alternative policies and the reasons for choosing among them. It states:

> If there is one general theme which should underlie reform of the budget document, that theme would be the provision of information necessary to make choices among alternative budgetary policies. The * * * purport of this entire study is that more information for the measurement of alternatives should be provided in the budget document.

Mr. President, about the time that the report was released, the Congress received the new Federal budget for fiscal 1963. It was clear that it had already introduced a number of modifications along the lines suggested in the Joint Economic Committee report. It contained a more comprehensive and explicit discussion of the economic assumptions underlying the revenue estimates. It included additional materials designed to show the impact of the budget totals on the economy. For the first time, the Presidential budget message translated Federal fiscal activities into national income accounting terms. And it contained new tables showing obligations incurred, Federal civilian employment, and the investment character of Federal budget expenditures.

I am sure that the Budget Bureau will experiment with some of the other improvements proposed by Dr. Moor. But until serious consideration is given to one budgetary reform which, I regret to say, was not discussed in the Joint Economic Committee report; namely, distinguishing between the capital budget from the current budget, I do not believe that the budget document is likely to serve as an adequate tool for measuring alternatives in fiscal policy. It should be mentioned that although the Joint Economic Committee report takes no position on the capital budget proposal, it does present in a 35-page appendix materials on the operations of capital budgets in various foreign countries and in various States.

Mr. President, if in place of a hodgepodge administrative budget we established two budgets—the current budget covered by current revenues, and the capital budget financed largely by borrowings backed up by capital assets and by earnings from these projects, we would go a long way in providing ourselves with the tools to meet more effectively the problems that confront our Nation in the 1960's. By so reforming the budget, we would be following the practice of the business world, which differentiates between investment and current expense items in its bookkeeping procedures. We would no longer unduly swell up budget totals and budgetary deficits, with the consequence that essential public projects are starved. By removing confusion in our basic measurements, we would shed myths and illusions about fiscal policy which have militated against meeting the requirements of a dynamic society.

DENVER POST EXCELLENT ANALYSIS OF PROXMIRE PROPOSAL TO RAISE SCHOOL AGE TO 17

Mr. PROXMIRE. Mr. President, recently I introduced a Senate resolution calling on the States to raise the school-leaving age to 17.

The purpose of this amendment was twofold. It would have reduced unemployment by sharply reducing the hundreds of thousands of young people who are out of school and out of work.

Bureau of Labor Statistics studies show that this teenage group constitutes a remarkably large share of our total unemployment.

Secondly, this amendment would have been directed at correcting the human tragedy of the youth who quits school without an adequate education or skill, drifts into the employment force and suffers for a lifetime because of his lack of basic education.

The Denver Post in a very fine and perceptive article by Roscoe Fleming analyzes this resolution and concludes:

> Whether or not PROXMIRE has the whole solution, he does have something we should be thinking about—hard.

I ask unanimous consent that this excellent article from the Denver Post be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROXMIRE PLAN DESERVES STUDY

(By Roscoe Fleming)

Senator WILLIAM PROXMIRE, of Wisconsin, would make it "the sense of the Senate" that children must go to school until age 17; or until graduation from high school.

The general U.S. rule is compulsory education until age 14. Even that was once resisted by some old codgers who could not see the sense of children gettin' their brains spoiled by all the booktrash, especially when they were needed as laborers on the farm or in town.

The idea of keeping children in school until age 14 was a great advance in its day. But now maybe we need a new advance.

PROXMIRE notes that dropouts begin at 14, and that each year a million boys and girls or more leave school, and promptly furnish our largest single-age group of jobless. By 1970, he says, under the present rule a million and one-half will be leaving school before completion.

Another sad feature is that the accounts of holdups, break-ins, and crimes of violence in general, show that many are committed by young predators.

PROXMIRE says 1 in 4 of all our 11 million students in high school will drop out before graduation. One-third of all unemployed are aged 14 to 19. And half of all jobless are under 24.

This world and the next—the world of lunar landings and enormous scientific and technical advance—simply won't have much use for untrained youth.

Business Week magazine, in reporting this, displays a striking sketch. It shows a personnel manager beckoning past a whole line of mature men, to a pint-sized kid at the end—who nonetheless has a tasseled cap, a gown, and an armful of books.

Many employers who used to stipulate an elementary school certificate now demand a high school diploma even for people who start in sweeping floors. The employers are more interested in potentiality than in muscle, and know there is far more chance that the high school graduate will move up and prove more useful year by year.

Cost more money? Of course it would cost much more money, to keep all children through high school. But all good things cost money, and there's no discharge in that war.

Are we glad, or are we not, that our forebearers put our proportionately more, of much less ample incomes, to set a schoolhouse on every hill, not far from the church?

Sometimes it seems to me that the greatest America story of all is the steady insistence on and growth of public education in the United States, to the point where, as we saw at Colorado University last week, one State university graduates 700 persons, nearly half

of them winners of masters' and doctors' degrees, in one summer commencement.

Yet we are complaining that we don't as yet have enough really trained people to cope with the complexities of the new age—not only its mechanical ones, but its social and psychological ones.

If we have anything to reproach our forefathers with—and ourselves when a few decades younger—it is that we didn't spend enough either in money or effort in the best investment any community, State, or nation can make. Now, it is well nigh the imperative investment in the new state of the world.

Whether or not PROXMIRE has the whole solution, he does have something we should be thinking about—hard.

OUR POLLUTED GREAT LAKES

Mr. HART. Mr. President, each day brings new evidence of the major contribution that was made to the future of our Nation by the Senate Select Committee on National Water Resources on which I served under the able chairmanship of the Senator from Oklahoma [Mr. KERR]. At my request, a hearing was held by that committee on Detroit on October 29, 1959.

At that time the voices that were being raised, in Michigan, in concern over pollution and other water problems characteristic of even the humid regions of the Midwest and East, were few and far between. Water just was not news in Michigan.

Well, we have had the report of the Senate committee and we have had the passage of 34 months. Attention is more and more being focused on the threat of pollution to commercial and sport fishermen, to would-be bathers, to industrial developers, and indeed to all who prize the quality of our water.

Today it makes good sense in Michigan that we are seeking a new commercial fisheries laboratory and a Public Health Service water pollution laboratory at Ann Arbor; that we are joining Federal, State, and local forces for a frontal attack on pollution in the Detroit River; and that we are looking to ways of preventing further fouling of the greatest inland body of water in the world—the Great Lakes.

The Detroit News, of September 3, 1962, carried an excellent editorial which fully recognizes and accurately describes our situation. Their expression of concern should have the widest attention and I ask unanimous consent that the editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

INCIPIENT DISASTER

The paradox of the Nation's water problem is that so many people, both humble and powerful, are aware of its threats to personal and national existence, yet it rouses no public fury.

Some may have thought James A. O. Crowe, the Detroit News outdoor editor, was straining for the sensational in his story of Sunday, August 26, when he wrote that the Great Lakes could die as did the passenger pigeons and the buffalo herds.

If those words are sensational, what of these from Vice President LYNDON JOHNSON, while he was still a Texas Senator:

"As majority leader of the U.S. Senate, I am keenly aware that water management is our No. 1 economic problem."

It is a problem promising putrefaction in Detroit's front yard. In Lake Erie's 10,000 square miles of once-sparkling purity, there is sickness. While we watch, it becomes epidemic. The other Great Lakes are vulnerable to the cause of Erie's death.

It is dying because government, industry, commerce, individuals, all of us mistook freedom for license. In early days, proud Detroiters built their homes and their businesses to look toward the river and the lakes. The time now has come when beauty flees the corpse and we look the other way from our guilt.

The hard-driven businessman may snort at esthetics, at the sportsman, at Government interference. All right. The time also has come for a look at the hard facts about which business leaders prefer to talk. Here are some:

It takes 60,000 to 70,000 gallons of water to make a ton of steel, 600,000 gallons for a ton of synthetic rubber, 200,000 gallons for a ton of rayon, a thousand gallons to make a pound of high-grade paper. During the Korean war, it took 29 million gallons of water to produce just the aluminum for a single bomber.

Senator KERR, Democrat, of Oklahoma, is a tough businessman, many times a millionaire, an oil tycoon. He also is the ranking Democrat of the Senate Public Works Committee, an authority on water resources, author of a book on conservation. He writes:

"Conservation is the cheapest crusade in history. We must protect and improve what water we have, and we must find more water. That is the price of survival."

The plight of Lake Erie, Detroiters will say, is not a direct problem of theirs. The sickness of Lake Erie is not confined. The flight of wild life, the death and disappearance of once great shoals of fish, closed beaches, all testify to a sickness that is spreading like an epidemic into the other Great Lakes.

Its approach is felt in Chicago, in Minneapolis, Duluth, along the Canadian shore. It is spreading into Lakes St. Clair, Huron, Michigan, Lake Superior, greatest of the inland oceans, soon must be touched by forebodings.

Those living inland from the Great Lakes may say: "This is the problem of the lakefronters." Is it? Senator KERR emphasizes the story of Roosevelt City, within 60 miles of New York City, snug, watered by underground sources through artesian wells.

One November morning, the water taps dribbled dry, city pumps sucked sand, the schools and factories closed. Town residents drove to nearby communities to take baths and to eat. Their only water came from emergency tank trucks. Had they lived on the beaches of Lake Erie they still could not have drunk.

From border to border and coast to coast, water is America's national problem. Senator HART, Democrat, of Michigan, who accompanied Senator KERR to a series of 20 hearings on water resources about the Nation and joined him in sponsoring corrective legislation, described himself as "appalled."

"All of us were willing to spend millions to bring grass to the deserts of the West," he said. "While we were doing so, we were making deserts in the East where there once was a wealth of clean water.

"Of course, water is recreation, a source of food, a dwelling place for wildlife, a resource for industry. It is more. In the modern world, water means homes, no more, no less."

The Great Lakes are a resource and a problem we share with Canada. Ultimately, only joint effort by the two Governments can avert disaster. For the dedicated, there is much to be done meanwhile.

Our scientists have the ability to control and end pollution. There is legislation and the statute books of Great Lakes States which, if toughly enforced, could end most of the poisoning of our Great Lakes drinking fountains with industrial wastes and municipal sewage.

In a world looking thirstily for water, the lakes are worth more than all the gold in Fort Knox. To turn to them in emergency and find them fouled beyond use would be a greater tragedy and more irreparable loss than to open the Nation's vaults and find them but filled with trash.

The first attack on the problem of the Great Lakes is to understand the threat. The next step is to dedicate ourselves to be heard and to fight back. The Great Lakes States send a sufficiently powerful bloc of Senators and Representatives to Congress to shake that body into action—once the demand for action at home becomes a roar.

To dam the rivers to save water and fuel industry in the West is a great objective. To preserve what we already have where it is needed most should have priority.

SOVIET AID TO CUBA

Mr. ENGLE. Mr. President, on August 31, my friend from New York [Mr. KEATING] addressed himself to the subject of Soviet aid to Cuba. Yesterday my distinguished colleague from New York appeared on a television program discussing the same subject. On the floor of the Senate on the same day he again brought up the same subject.

In his statement issued in connection with the television program, Senator KEATING called on the administration to "tell the American people the whole truth."

Mr. President, the administration has been telling the American people the whole truth. Let me address myself to the record.

On August 22 the President of the United States, in his press conference, was asked about new supplies being landed in Cuba. The President answered the question clearly and explicitly in saying that new supplies in large quantities were being landed. Let me read into the RECORD the questions and answers on the subject from his press conference.

Question. Mr. President, do you have any information or indication that Communist-bloc troops or new supplies of any kind have been landed in Cuba recently?

The PRESIDENT. Yes, new supplies definitely, in large quantities. Troops, we do not have information, but an increased number of technicians.

Question. What is the significance of this, in your opinion?

The PRESIDENT. Well, we are examining it now.

Question. Do you think it is aimed at any other Central American country?

The PRESIDENT. No, there is no evidence of that. And we are not talking about—as far as the numbers, we are not talking about the kind of entrants in numbers which would provide support for the sort of operations you suggested. What we are talking about are supplies and technicians of rather intensive quantity in recent weeks.

Question. Mr. President, you spoke of the increased supplies going to Cuba. What countries are they going there from?

The PRESIDENT. The bloc.

Of course, that refers, in that instance, to the Soviet bloc.

On August 24 the Department of State gave a background press and radio news briefing on this subject. The background press conference is a well estab-

lished procedure employed in Washington over many, many years by many administrations to get additional facts on foreign policy questions out to the American people through the press.

I submit for the RECORD an article from the Washington Post, an article from the New York Times, and other articles—most of them dated August 25.

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

[From the New York Post, Aug. 24, 1962]

UNITED STATES DOUBTS AID TO CUBA IS MILITARY

(By Peter Lisagor)

WASHINGTON, August 24.—The many Communist-bloc supplies and technicians reaching Cuba in recent weeks are believed here to be directed at propping up Premier Castro's wobbly economy rather than building up an arsenal.

Informed officials admit to a paucity of hard evidence as to the contents of some 30 ships known to have arrived at Cuban ports in the last month.

They also say that the rumor mills in refugee-cluttered Miami and the Caribbean appear to have exaggerated the size and purpose of the admittedly unusual number of shipments from Communist countries.

[A State Department spokesman said today: "We have seen nothing of any military offensive significance. The ships coming in during the last few weeks must be seen in the larger context of the Soviets' trying to keep Castro afloat."

[He confirmed that 15 Communist ships—some apparently carrying military equipment—were due to dock in Cuba this weekend.]

FOUR THOUSAND MIGRANTS

The estimates here are that the ships have brought in 4,000 to 5,000 personnel, some of them Cubans returning from training schools, some Communist-bloc technicians.

They also have brought in quantities of trucks, tractors, and crates that could contain small arms or other military equipment.

Officials say the situation will be carefully watched to see if the supplies continue to come into Cuba at the same high rate.

But at the moment, they add, there are no indications of anything like a massive buildup of combat materiel.

The Cuban economy is pictured here as being in such dismal shape as to give communism a bad name even among Marxists. The Castro regime has had to suspend some of its top industrial managers in the last few days for their failures.

SUGAR INDUSTRY HARD HIT

The sugar industry, the backbone of the Castro economy, is described by diplomatic sources here as in critical condition. Worker absenteeism has contributed to the island's economic deterioration.

For these reasons, the belief here is that the shipments are more likely to be of economic significance rather than military, although more guns and military hardware may be considered essential for several purposes.

[From the New York Times, Aug. 25, 1962]

RUSSIANS STEP UP FLOW OF ARMS AID TO CASTRO REGIME

(By Joseph A. Loftus)

WASHINGTON, August 24.—U.S. officials said today that Soviet equipment and technical personnel, military and civilian, were pouring into Cuba.

At least 20 cargo ships and an unspecified number of passenger ships have arrived at Cuban ports since large-scale deliveries were resumed late in July after a lull, it was said.

The equipment may include ground-to-air missiles, largely defense weapons. There apparently is transportation, electrical and construction equipment, such as communications vans, radar vans and mobile generator units. These appear to be going into coastal and air defenses.

TOTAL PUT AT 3,000 TO 5,000

Technicians, probably half of them military, are estimated at 3,000 to 5,000. These include several hundred who arrived earlier in the year.

Intelligence reports do not indicate the arrival of troops or equipment that would add significantly to the limited offensive power of the Cuban forces.

These forces, according to officials here, are incapable of getting off the island. The only on-island targets are the U.S. naval installation at Guantanamo Bay and anti-Castro guerillas, the existence of which the regime of Premier Fidel Castro has acknowledged.

The new equipment would also tend to discourage Cuban rebels in any plans or hopes for mounting another invasion.

HEMISPHERE ALERTED

A Government official said the deliveries were a matter of concern to the entire Western Hemisphere.

Moscow's broadcast explanation has been that its ships are carrying machine tools, wheat, agricultural machinery, tinned goods, combine harvesters, fertilizers, and cereals.

However, 40-foot crates indicate to observers that the contents are equipment not used in agriculture or on household tables. Trucks drive onto the ships and then leave with tarpaulins covering their cargoes. Some ships are unloaded under strict security conditions. Several ports beside Havana are being used.

There is no evidence that troops from the Soviet bloc or nuclear warheads have arrived in Cuba.

Earlier this week, exiled Cuban leaders in the United States reported that more than 5,000 soldiers from Soviet bloc countries had been landed in Cuba during the last 2 weeks by Soviet ships. Similar reports circulated earlier.

U.S. officials have reported in each instance that they knew of no military forces being landed in Cuba. The reports have been ridiculed by the Communist press in Havana.

One official's view is that the Soviet Union, fully approving of the Castro brand of communism, agreed to a deeper involvement in Cuban affairs. Propped up by a major power, the Castro regime is in a better position to stiffen the backs of its supporters and frighten its enemies.

Although the shipments are large enough to cause concern, they are far smaller than the volume that the Soviet Union has sent, for example, to Indonesia.

Some of the foreign technicians in Cuba are clearly economic and agricultural. The military technicians are apparently there to train Cubans in the maintenance and use of the equipment. There is no solid information that any of these military personnel are in combat units.

[From the Washington Post, Aug. 25, 1962]

UNITED STATES EYES RISING RED AID TO CUBA

(By Donald May)

Russia is pouring from 3,000 to 5,000 men and military technicians into Cuba and providing the Castro regime with modern equipment, possibly including surface-to-air missiles, U.S. officials reported yesterday.

Shipments of technicians and equipment have been going on for several weeks and more cargoes are en route, the officials said.

The Kennedy administration was said to be watching the situation closely and with some concern.

BUILDUP COMES QUICKLY

According to the officials, the buildup has come about rather quickly. It started in late July and apparently means the Soviet Union decided some months ago to give more support to the Fidel Castro regime as at least a semimember of the Soviet bloc.

In addition to the military supplies there has been material for civilian use. But officials said some electronic gear has been sighted that conceivably could be turned into a system that could monitor U.S. missile launchings from Cape Canaveral on the Florida coast.

U.S. experts believe the total military buildup will not increase significantly the quite limited offensive capabilities of the Cuban Army. Instead, the equipment appears to be designed to improve the country's coastal and air defenses. The technicians appear to be there to teach Cubans how to use it.

LINKED TO MOSCOW TRIP

Raul Castro, Cuba's Armed Forces Minister, made a mysterious visit to Moscow last month and some Cuban observers feel he sought and obtained the supplies.

Of the Soviet technicians, at least half are believed to be military specialists assigned to help set up the new equipment and train Cubans to use it.

Despite frequent reports from Cuban exile groups about "Soviet troop" landings in Cuba, officials here said none of the arrivals was seen to wear uniforms. They also said there was no solid information that any of the recent arrivals were organized in combat military units.

[From the New York Herald Tribune, Aug. 25, 1962]

UNITED STATES REPORTS ON RUSSIA'S ISLAND BASE

WASHINGTON.—The Russians are pouring men and military hardware—including possible surface-to-air missiles—through a long pipeline to Fidel Castro in Cuba.

Halfway across the world, from Soviet ports to the Caribbean, hard by the tip of the southeastern United States, the extent of recent Soviet shipments is beginning to worry administration specialists here.

The big Soviet buildup, U.S. officials reported yesterday, began about a month ago. Today there are between 3,000 and 5,000 Soviet technicians of all levels of military organization installed by the regime of Premier Castro.

Presence of specialists and assorted weapons is a hand-in-hand operation for Castro and the Russians that can function this way:

They can strengthen the Castro Cuban coastal and air defenses.

They present a readymade Soviet base from which further operations—or simply the potential threat of expanding adventures—can be held as a club over the United States.

The Russians for years have demanded that we dismantle NATO bases near their frontiers. They can be expected to use their Cuban buildup as a quid pro quo: They'll quit, if we also withdraw elsewhere.

Beefing up Castro's gunsmoke strength with knowledgeable specialists and equipment also has the intent of discouraging mounting anti-Castro sabotage inside the country. In effect, his big brothers have come to Castro's aid with physical power within sight of the "Yanqis."

For some time there had been an inclination here to soft-pedal the Soviet buildup in Cuba. Obviously there is a clash of opinion among people who are supposed to assess and estimate those power problems. It's a question of how much, or little, alarm exists.

For example, in addition to the Monroe Doctrine, there have been resolutions since 1959 by the Organization of the American

States, condemning just what the Russians have been doing. Still, the U.S.S.R. has continued to dispatch, unchecked, forces and arms into the Americas.

WORRIERS WIN

Some U.S. experts believe there's plenty to be alarmed about and that the public-at-large should be made aware of this. Their critics, also experts, claim that it isn't as rough as it may seem on the surface.

The worriers appear, at least as of yesterday, to have come out on top so that a picture of the Soviet buildup in Cuba was analyzed.

Their presentation came after an attorney, who got world notice for his work in the release of U–2 Pilot Francis Gary Powers, got the official OK to go to Cuba.

James B. Donovan, New York lawyer, has his passport validated to go to Cuba. There, he will try to negotiate an exchange of prisoners seized by Castro after the 1961 fiasco of the Bay of Pigs invasion. Castro wants them ransomed for nearly $60 million.

Mr. Donovan said he was assured by Castro's regime that he would be welcome. He also met Attorney General Robert F. Kennedy Thursday. About that meeting, Mr. Donovan kept mum.

STEP UP PATROLS

But the worrisome phase of Soviet meddling in the Caribbean makes Mr. Donovan's mission something of a sidelight even with the assumption that he'll be talking to the top people in the Castro regime.

Since the Russians intensified their activity in the Caribbean, it's a safe enough guess that the United States will step up patrols. This probably means more Navy sea and air patrons out of Guantanamo Bay.

Surveillance from that base has been a regular duty. Possibly added to its expansion will be longer range observation by the Navy and Air Force. That could possibly lead to incidents.

Castro has complained regularly at what he called violation of Cuban airspace by low-flying U.S. aircraft. Now that he has the potential to use ground-to-air missiles, thought to be like the U.S. Nike, it's conceivable a U.S. plane could be brought down.

The decision to divulge details of the Soviet buildup which coincides with Russian pressure on Berlin, resumption of Soviet nuclear weapons tests and the astro-twins space feats, must have been made in the last 48 hours.

At his press conference Wednesday, President Kennedy made a terse reference to Cuba but he supplied no details. The nature of the supplies, covering trucks to radar vans and electronic equipment carried in 15 to 20 Soviet vessels, was disclosed yesterday.

PROTEST MARCH IN TIMES SQUARE

Fifty demonstrators paraded around the Armed Forces recruiting office booth in Times Square last night to protest the reported landing of Russian troops and supplies in Cuba, expected to begin today.

The demonstration was sponsored by the Cuban Rescue Committee, of 466 Eighth Avenue. It included mostly Cubans and persons of Cuban descent, with a scattering of American students and a few children. Twenty patrolmen and four sergeants were assigned to the demonstration, which was orderly.

[From the St. Louis Post-Dispatch, Aug. 26, 1962]

SPURT IN SOVIET AID TO CUBA IS SAID TO SIGNIFY FIRMER STAND

(By Thomas R. Phillips)

WASHINGTON, August 25.—A lull in the shipment of military equipment and technicians by the Soviet Union to Cuba that has existed since early this year was broken late in July by the resumption of large-scale deliveries.

At least eight ships delivered military cargo between July 26 and August 8. There have been additional deliveries since then. Cargoes delivered and cargoes in ships now on the way from Soviet ports are believed to total about 20, an estimate that may be about 2 ships off, either plus or minus.

MANY TECHNICIANS SENT

At the same time, large numbers of Soviet technicians have also arrived in five or more passenger ships. There is no indication that the current rush of Soviet personnel and equipment to Cuba has ended.

It is estimated now that there are from 3,000 to 5,000 Soviet technicians in Cuba, with more to come. Until the recent massive increase, they were numbered in hundreds. From one-half to two-thirds are believed to be military technicians, trainers, and advisers.

These statements are intelligence estimates made by responsible officials. It is emphasized that not all this intelligence is positive or "hard." The data were released, apparently, because of exaggerated reports that have been published, commonly based on information from Cuban refugees with island connections.

NO FOREIGN TROOPS

Some have claimed that there are 18,000 Russian and 5,000 Chinese troops in Cuba. According to U.S. intelligence there are no Russian or Chinese in Cuba in uniform or in standard military-type organizations.

The recent military deliveries include large quantities of transportation, electronic, and communications equipment. This includes such items as communications vans, radar vans, and generating units on large tractor-trailers.

Crates 40 feet long were unloaded at some ports and hauled away on trailers under maximum security conditions. It is believed that much of the equipment was for coast defense and air defense purposes. It is believed officially that missiles similar to the U.S. Nike air defense missiles were an important part of the shipments.

MISSILE EQUIPMENT

This estimate is qualified by the fact that the crates were not unloaded where the equipment could be observed. However, radar and other equipment observed was obviously part of air defense missile unit equipment.

It is stated officially that the new equipment does not add significantly to the small Cuban defensive potentiality. It is also stated that the large additional number of technicians is compatible with the requirement for setting up and training Cuban personnel in the operation of the equipment.

This position is questioned in military circles.

The official explanation of the sudden and massive spurt in Soviet deliveries to Cuba is that from the Soviet point of view this is a decision to prop up the Castro regime, which is now confronted with economic troubles and popular discontent.

NO COLLAPSE IMMINENT

The Soviet Union is now more deeply involved in the Castro regime and committed to maintain it. While Castro is having troubles of many kinds, it is not believed that his regime is in danger of imminent collapse.

For such large amounts of personnel and equipment to reach Cuba at this time, the decision to ship had to have been made 5 or 6 months ago. Commencing in February, the Soviet and Cuban radio and press accused the United States of preparing aggression against Cuba. Apparently these claims were taken seriously.

Coast and air defense military equipment would be the natural answer to such fears, since Castro is already well supplied with tanks and other ground military materiel.

IMPACT ON NAVAL BASE

If air defense missiles were deployed around the U.S. Guantanamo Bay Naval Base in Cuba, there could be serious results. Although the two landing strips there are approached from the sea, it is often necessary for planes to circle. The small extent of the Guantanamo base makes it difficult for high-speed jet aircraft to keep within its boundaries.

The Cubans have been subjected to a large amount of propaganda about U.S. violations of its airspace. If a trigger-happy Cuban crew with its Russian advisers shot down an American military plane that accidentally strayed over Cuban territory, a serious international incident would be created.

The Russian technicians operate in high-security areas. Only specially qualified Cubans are allowed in these areas.

The Moscow Radio, broadcasting in Spanish to Cuba, explains that the shipments arriving are thousands of tons of tinned goods, lumber, fertilizer and harvesting machinery.

It is rumored that the United States is seriously considering an air and sea blockade of Cuba.

Mr. ENGLE. Mr. President, it will be noticed that all these stories contain the same set of facts. All of them mention 3,000 to 5,000 Soviet technicians. All of them mention the possibility of ground-to-air missiles. All of them mention the strengthening of coastal and air defenses. It will be noticed also, Mr. President, that all these articles relate that the information came from U.S. officials. What we have here, quite clearly, is evidence that the administration held a background press conference to get these facts out to the American people.

These articles were published after the original statement made by the President of the United States in his press conference on August 22.

On Wednesday, August 29, the State Department also briefed a bipartisan group in the House of Representatives—in fact, invited all House Members who so desired to attend. I ask unanimous consent to make a part of the RECORD the statement supplied to the House of Representatives at that time.

The PRESIDING OFFICER (Mr. LONG of Hawaii in the chair). Without objection, it is so ordered.

The statement was ordered to be printed in the RECORD, as follows:

SOVIET MILITARY AID TO CUBA

After a lull since early 1962 the Soviet Union resumed large-scale military deliveries to Cuba in the last week in July. Since then, Soviet ship movements to Cuba have totaled at least 25, including at least 5 passenger ships. This is in addition to normal tanker and cargo movements. The shipments contained both military and economic goods and personnel. Although full details are not yet available on the contents of the ships, nor of the breakdown between military and nonmilitary, information to date indicates the following:

Cargo: Military cargo, perhaps as much as half of the total, included large quantities of transportation, electronic, and construction equipment, such as communications vans, radar vans, trucks, and mobile generator units. Much of the equipment is likely to go into the improvement of coastal and air defenses. The size and shape of some of the boxes delivered suggests that it is possible they could contain ground-to-air missiles for antiaircraft use, but we have no information on that as yet. These missiles are not adaptable for nuclear use.

Nonmilitary cargo, roughly half of the total, consists of deliveries, already behind schedule, of industrial and agricultural equipment under aid and trade agreements.

Personnel: A large number of additional Soviet specialists arrived in Cuba in the same period. With the recent arrivals, the total number in Cuba or on the way, both military and nonmilitary, may be as high as 5,000. The breakdown between military and technical personnel is not known, but the additional numbers of military specialists are not incompatible with the training and setting up of the complex military equipment which has arrived. There is no evidence of the arrival of Soviet combat troops from other Soviet bloc countries.

The shipments consist of both economic goods and defensive military goods. They appear designed to enhance the Cuban regime's defense capabilities against an internal threat, and to increase the effectiveness of the Cuban military establishment for possible internal use. Information to date indicates that the shipments will not improve significantly the very limited offensive capablities of the Cuban armed forces.

The recent shipments indicate a significant increase in Soviet involvement in Cuba. The increased amount of military assistance accompanies stepped-up Soviet economic aid to try to relieve Cuban shortages. The shipments must have been planned several months ago to have arrived when they did. The Cuban regime, facing economic deterioration and rising popular discontent, probably hopes to strengthen its internal position through new demonstrations of Soviet support.

RECENT STATEMENT BY THE U.S. DEPARTMENT OF STATE CONCERNING U.S. POLICY TOWARD CUBA

U.S. policy is to bring all the pressure we can to isolate Cuba and to prevent Cuba from being able to have an impact on the rest of Latin America. The United States, in cooperation with friendly member states of the Organization of American States and other international bodies, will take all feasible measures to give the Cuban people a chance to choose freely the government they want. We believe that the Cuban people would not choose Castro communism.

We remain concerned over the threat which the Cuban regime poses for the peace and security of the hemisphere. Through effective collective action we will defeat the Cuban regime in its announced objective of creating Communist revolutionary regimes in other Latin American countries. The Foreign Ministers of the American Republics, at their meeting in January 1962, found the Cuban regime incompatible with the inter-American system, excluded the Cuban regime from participation in that system, and recommended a series of measures to assist OAS member states individually and collectively to combat Communist subversion.

RECENT STATEMENT BY EDWIN M. MARTIN, ASSISTANT SECRETARY OF STATE FOR LATIN AMERICAN AFFAIRS, AS REPORTED BY THE U.S. NEWS & WORLD REPORT, AUGUST 6, 1962

Question. Is the fixed goal, then, to get rid of Castro?

Answer. We want to get rid of Castro and the Soviet Communist influence in Cuba—not just Castro. I think the Soviet Communist influence is more serious than Castro, although Castro should be added in. But we also are, meanwhile, very anxious to prevent him from having any impact elsewhere.

Question. Is Castro really just a Communist stooge?

Answer. No; I don't think so. I think it is very difficult always for an outsider to understand the real power relationship within a political organization. It's hard in this country, sometimes, to know who is pulling strings.

But, insofar as we know the situation from outside, I think we would have to say that right now Castro is the boss. Now, this doesn't mean he has a completely free hand or that he doesn't take advice, but there was some feeling 6 months ago that he was falling into the background and being taken over by the old-line Communist crowd. Although this may have been the case then, it certainly is not the case now. Castro is making the statements of policy.

Question. How long do you think he can hold the situation together down there?

Answer. It's very hard to say.

Question. Do you think 20 years, 50 years, or 2 years?

Answer. Well, it would be closer to 2 years than the other two figures. Maybe this is wishful thinking, but this would seem to me true.

I think there is, undoubtedly, some tension between the old-line Communists and Castro and his crowd. I think it's in part the kind of tension that is normally generated by a bad situation. Basically, though, it's a competition for power, accompanied by some personal frictions.

As of the moment, though, I think that the old-line Communists realize that their popular appeal would not permit them to maintain control very long without Castro—he is popular with the countryside. Nor would they wish to lose Castro as their principal source of appeal in the rest of Latin America.

Question. Might the whole situation just collapse, economically?

Answer. It's not impossible, but hardly something we can count on to solve our problem at any early date. With the economic situation worsening as it is doing—and, if you believe only what Castro says, it's quite bad—this undoubtedly puts a great deal of pressure on the Government. When you think of the problems even relatively well-organized, well-disciplined societies have had with an extensive rationing system, you can imagine, with the degree of shortage they have, what a shamble it must be there.

Question. Is Russia supplying much to Cuba?

Answer. They are supplying a substantial amount of things, but not nearly enough really to meet the gap and prevent the difficulties they are now having. And, of course, increasingly, at least for another year, Russia will have to be supplying on credit because the poor sugar harvest has meant that they've had to cut back their commitments for delivery of sugar.

Question. Do you think Castro can be pushed out of Cuba without military invasion from the outside?

Answer. Yes; I think that's possible.

If you look around Latin America, people apparently with a lot stronger positions than he has have collapsed and been thrown out without outside intervention. But, again, I don't want to suggest we can relax.

Question. Do you think some other "Castros" may develop elsewhere in Latin America?

Answer. At the moment, I'm reasonably optimistic on this point, although one certainly can't rule out the possibility completely. Castro's image, I think, has considerably diminished in attractiveness over the past 6 to 9 months—partly because his confession that he has always been a Marxist-Leninist has disabused those who thought he was a Latin American reformer and somebody they could copy—that was in their image—and, secondly, because of the economic conditions within Cuba.

Mr. ENGLE. Mr. President, on August 30, a letter was sent to the Committee on Foreign Relations. It contained substantially the same information. This letter was sent for the use of all members of the Foreign Relations Committee.

In addition, on August 30 in his press conference President Kennedy was again asked about the Cuban situation. He was specifically asked about a statement made by the Senator from Indiana [Mr. CAPEHART], calling for a U.S. invasion of Cuba to stop the flow of troops and supplies. I wish to read into the RECORD the questions and answers on that matter from the President's August 30 news conference:

Question. Mr. President, Senator [HOMER E.] CAPEHART, Republican, of Indiana, in a speech the other day said that the Communists are sending troops into Cuba, not technicians, as you told us last week.

The reference, of course, is to the press conference of August 22.

CAPEHART, according to the United Press International, also called for a U.S. invasion of Cuba to stop the flow of troops and supplies. Would you comment, sir?

Answer. We have no evidence of troops. And I must say that I know that this matter is of great concern to Americans and many others. The United States has obligations all around the world, including West Berlin and other areas, which are very sensitive, and, therefore, I think that in considering what appropriate action we should take, we have to consider the totality of our obligations, and also the responsibilities which we bear in so many different parts of the world. In response to your specific question, we do not have information that troops have come into Cuba, No. 1. No. 2, the main thrust, of course, is assistance because of the mismanagement of the Cuban economy which brought widespread dissatisfaction, economic slowdown, agricultural failures, which have been so typical of the Communist regimes in so many parts of the world. So that I think the situation was critical enough that they needed to be bolstered up.

However, we are continuing to watch what happens in Cuba with the closest attention and will respond to—will be glad to announce any new information, if it should come, immediately.

By the way, that promise has been kept.

Question. Mr. President, did you answer my question, on CAPEHART's suggestion that we invade Cuba? Was that your answer?

Answer. I am not for invading Cuba at this time. No, I don't—the words do not have some secondary meaning. I think it would be a mistake to invade Cuba.

Question. Mr. President, the Soviets, as you well know——

Answer. Because I think it would lead—that it should be—an action like that, which could be very casually suggested, can lead to very serious consequences for many people.

* * * * *

Question. Mr. President, I wonder if a distinction could be made with respect to the troops in Cuba. Some of us were told at the State Department the other day—

This referred to the background briefing—

that there is Russian military personnel in Cuba, that these are military technicians, and they are people who are probably going to operate missiles, similar to the Nike missiles.

Is this in accord——

Answer. I don't know who told you that at the State Department, that they are going to operate Nike missiles, because that information we do not have at this time.

There certainly are technicians there, and they may be military technicians. We don't

have complete information about what's going on in Cuba, but since the word "troops" has been generally used, they had a military advisory commission there for a long period of time, so there may be additional military advisory personnel or technicians. But on the question of troops, as it is generally understood, we do not have evidence that there are Russian troops there. There is an expanded advisory and technical mission. That is correct.

Question. Are there no antiaircraft missiles shipped into Cuba?

Answer. We have no information as yet.

Question. Mr. President——

Answer. That does not mean that there have not been, but all I am saying is that we have no such information as yet.

The statement made by the Senator from New York [Mr. KEATING] with reference to this matter appears on page 18359 of the CONGRESSIONAL RECORD of August 31. In addition, as I have previously said, Senator KEATING on September 4 made a further reference to the Cuban situation. His remarks appear on pages 18438–18440 of the CONGRESSIONAL RECORD for September 4.

The Senator from New York was in error on his information. On August 31 he made the statement:

The convoy moved on military order and contained the first amphibious vehicles observed in Cuba.

Our intelligence, as indicated by the President in his statement of September 4, makes it very clear that we have no information with respect to amphibious vehicles. The President said:

There is no evidence—

First—

of any organized combat force in Cuba from any Soviet bloc country;

Second—

of military bases provided by Russia;

Third—

of a violation of the 1934 treaty relating to Guantanamo;

Fourth—

of the presence of offensive ground-to-ground missiles;

Fifth—

of other significant offensive capability either in Cuban hands or under Soviet direction and guidance.

The President went on to say:

Were it otherwise, the gravest issues would arise.

I wish to place in the RECORD at this point the full transcript of the news conference at the White House yesterday afternoon, September 4, 1962, in which the President's position is fully set forth; and I ask unanimous consent that the full transcript of the conference be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

NEWS CONFERENCE AT THE WHITE HOUSE WITH PIERRE SALINGER, SEPEMBER 4, 1962

Mr. SALINGER. I am going to read a statement, which is a statement of the President.

"All Americans, as well as all of our friends in this hemisphere, have been concerned over the recent moves of the Soviet Union to bolster the military power of the Castro regime in Cuba. Information has reached this Government in the last 4 days"——

Question. Are you giving us paragraphs?

Mr. SALINGER. I will.

Question. Is there a "that"?

Mr. SALINGER (reading). "Information has reached this Government in the last 4 days from a variety of sources which establishes without doubt that the Soviets have provided the Cuban Government with a number of antiaircraft defense missiles wtih a slant range of 25 miles which are similar to early models of our Nike. Along with these missiles, the Soviets are apparently providing the extensive radar and other electronic equipment which is required for their operation. We can also confirm the presence of several Soviet-made motor torpedo boats carrying ship-to-ship guided missiles having a range of 15 miles. The number of Soviet military technicians now known to be in Cuba or en route—approximately 3,500—is consistent with assistance in setting up and learning to use this equipment. As I stated last week, we shall continue to make information available as fast as it is obtained and properly verified.

"There is no evidence of any organized combat force in Cuba from any Soviet bloc country; of military bases provided to Russia"——

Question. Don't you mean "by"?

Question. They are not making any available.

Question. They are not giving any bases to Russia.

Mr. SALINGER (reading). "To Russia; of a violation of the 1934 treaty relating to Guantanamo; of the presence of offensive ground-to-ground missiles; or of other significant offensive capability either in Cuban hands or under Soviet direction and guidance. Were it to be otherwise, the gravest issues would arise.

"The Cuban question must be considered as a part of the worldwide challenge posed by Communist threats to the peace. It must be dealt with as a part of that larger issue as well as in the context of the special relationships which have long characterized the inter-American system.

"It continues to be the policy of the United States that the Castro regime will not be allowed to export its aggressive purposes by force or the threat of force. It will be prevented by whatever means may be necessary from taking action against any part of the Western Hemisphere. The United States, in conjunction with other hemisphere countries, will make sure that while increased Cuban armaments will be a heavy burden to the unhappy people of Cuba themselves, they will be nothing more."

Question. Pierre, was this statement discussed this afternoon with the leaders of both parties?

Mr. SALINGER. The situation, the current situation, in Cuba, as well as the information contained in the statement, was discussed by the President with the Secretary of State and other key officials of the administration, with a bipartisan group of leaders from both Houses of Congress here at the White House immediately prior to the release of this statement.

Question. Who were the Members?

Mr. SALINGER. I will read the names of those who were present.

Senators MANSFIELD, FULBRIGHT, RUSSELL, SPARKMAN, DIRKSEN, KUCHEL, HICKENLOOPER, and WILEY.

Representatives: The Speaker, the majority leader, VINSON, SELDEN, HALLECK, ARENDS, and CHIPERFIELD.

Question. Was anybody else from the Cabinet besides the Secretary of State there? Mr. McNamara?

Mr. SALINGER. Secretary McNamara was present; that is correct.

Question. How long did this meeting last?

Mr. SALINGER. About 1 hour.

Question. Did the President ask what they thought of this statement or did he read it to them?

Mr. SALINGER. No, the statement was not read to them. The information which it contained was given to them.

Question. Is it correct to infer that the entire tenor of the statement is to make it clear that the Cuban buildup at the moment, so far, is defensive or defensive weapons?

Mr. SALINGER. I think the statement speaks for itself, Ralph.

Question. Is the implication of the statement, Pierre, that so long as it remains defensive, you are not going to do anything about it?

Mr. SALINGER. The statement speaks for itself. I do not intend to go beyond the statement.

Question. What is "slant range"?

Mr. SALINGER. For background:

* * * * *

It means it can't go straight up 25 miles.

Question. It means horizontal distance?

Mr. SALINGER. That is right.

Question. None of the Soviet land-based missiles of which this Government is aware could be used to hit the mainland of the United States?

Mr. SALINGER. Again, I think we have described what the missiles were that we currently have information on.

Question. Is that the end?

Mr. SALINGER. That is the end.

Question. Thank you, sir.

Mr. ENGLE. In order that there may be no doubt as to a full discussion of this matter, I also wish to place in the RECORD the transcript of the press conference of September 3, 1962, in which Mr. Salinger was asked various questions with reference to this matter; and I ask unanimous consent to have printed at this point in the RECORD the full transcript of the discussion at that time.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

NEWS CONFERENCE AT THE WHITE HOUSE WITH PIERRE SALINGER, SEPTEMBER 3, 1962

Mr. SALINGER. I have nothing.

Question. Do you have any comment on the Russian charge that a U–2 overflew the Soviet territory?

Mr. SALINGER. No, I have no comment. I think, however, that the State Department will have something to say about it in the very near future.

Question. When?

Mr. SALINGER. In the very near future.

Question. What about Senator KEATING's comment about the Russia-Cuba buildup? It was announced that the White House would announce the inaccuracies later in day.

Mr. SALINGER. If we can deal with the U–2, then I will get on that.

Question. What do you mean by "the near future?"

Mr. SALINGER. The next several hours.

Question. Has the President been in consultation with the State Department on it?

Mr. SALINGER. The President is apprised of the situation.

Question. When was he informed, Pierre, and how?

Mr. SALINGER. This morning. He was apprised this morning.

Question. Before he landed back here?

Mr. SALINGER. No, I think when he landed he was told of the Soviet note.

Question. Pierre, can you tell us whether the spokesman in London, in the Air Force, who made the statement this morning, has been instructed to say more or say nothing from now on?

Mr. SALINGER. I am going to say absolutely nothing on this subject.

Question. Not you. I am asking about the spokesman in London.

Mr. SALINGER. I am not going to say anything about any other spokesman. In other words, I am not commenting on the situation, period.

Question. Pierre, when the State Department puts out its answer——

Mr. SALINGER. I didn't say they were going to put out their answer. I said they would have something to say about it.

Question. Will this be in the form of a written statement or will there be someone who can be questioned?

Mr. SALINGER. I am sure there will be somebody present who can be questioned.

Question. Pierre, are we going to understand that the State Department is going to handle this inquiry?

Mr. SALINGER. That is correct.

Question. Did your conference this morning with Mr. Manning and Mr. Sylvester have to do with the U–2 incident?

Mr. SALINGER. It did not.

Question. Pierre, has the note been received here yet?

Mr. SALINGER. I will refer you to the State Department on that.

Question. Is the State Department in consultation with other agencies so the answer will be coordinated?

Mr. SALINGER. The State Department will handle this matter.

Question. The State Department, whatever their reaction or whatever they do publicly in this, they are serving as the spokesman for the Government in this whole matter?

Mr. SALINGER. The State Department will make any statement they care to make.

Question. Pierre, will you explain to us why, on an incident of this kind, the White House has nothing to say, yet last week when a plane was allegedly shot at by a Cuban patrol boat, and the plane was flown by a Reserve pilot, and we only have his word that this happened, the White House saw fit to make a statement? What is the difference between these two incidents?

Mr. SALINGER. The State Department will handle this matter.

Question. Pierre, can you tell us what the status of the U–2's are right now? Are they flying for NASA or the Air Force?

Mr. SALINGER. Any statement on this matter will be made by the State Department.

Question. Aside from this matter—

Mr. SALINGER. I don't intend to say anything about it, Bob; not one single word.

Question. Is the President going to have a press conference this week?

Mr. SALINGER. I don't know yet. I will let you know this afternoon.

Question. Pierre, who apprised the President of this?

Mr. SALINGER. I believe Mr. Bundy did.

Question. Can you tell us what the Pentagon press officials were in here for?

Mr. SALINGER. No.

Question. Pierre, in another field, what is the White House role, if any, in the action of the Armed Forces radio broadcast in Iran? Have you called for any report on that? Have you received any reports on it?

Mr. SALINGER. We have received a report on it and our information is that the hoax was perpetrated on the Armed Forces radio in Teheran and we are looking into the matter.

Question. What was the hoax, Pierre?

Mr. SALINGER. I refer you to the story that emanated from there.

Question. You say the hoax was perpetrated on the Armed Forces radio?

Mr. SALINGER. Yes.

Question. Now, about Senator KEATING and the Cuban situation.

Mr. SALINGER. I am going to discuss this subject for background only.

* * * * *

Question. What is this?

Mr. SALINGER. This is Senator KEATING on Cuba.

First, I notice in the UP report that Senator KEATING said a White House spokesman had called the studio and stated that the President or the White House would reply to Senator KEATING's inaccuracies upon his return. That is inaccurate.

I called Mr. Chancellor and took exception with a statement he made at the opening of his broadcast in which he said that the President had stated that there were no Soviet military personnel in Cuba. The President did not state that.

A reading of his press conference remarks of last Wednesday will show what he did say on that subject.

As far as Mr. KEATING's remarks about the numbers of technicians or ships, I see nothing in that matter which has not been made public by the Government before.

Question. Do you mean the figures he has are figures that have been made public by the Government?

Mr. SALINGER. I couldn't tell you—there may be variations of hundreds or so, but the general information that he made public has been made public by the Government before on the subject of troops and so on.

Question. In general, it is correct, the information?

Mr. SALINGER. But what I am trying to point out is that there is nothing new or different about his statements on troops or ships.

Question. Then we have a question, don't we, of timing; which came first? Are we saying now that there are 5,000 Soviet troops which have landed in Cuba?

Mr. SALINGER. I am not saying that at all. I don't think he said that.

Question. KEATING said there were 1,200 Soviet troops.

Mr. SALINGER. He has two different figures. Again, I want to remind you that everything on this Cuban thing is on background.

A reading of Senator KEATING's statements on technicians and ships reveals nothing that has not been revealed before.

Question. Are you confirming that there are Soviet troops in Cuba? Twelve hundred?

Mr. SALINGER. I refer you to the President's statement last Wednesday. He made very clear what our information was at that time, and he also stated at that time if we had any other verified information on this subject we would make it public. That is our policy.

Question. There has been no change since last Wednesday; is that the idea?

Mr. SALINGER. When and if we receive any further verified information dealing with movements of technicians, troops, or any other subject involving Soviet military aid to Cuba, we will make it public, as the President indicated.

Question. Aren't we in a peculiar situation here where you are discussing, as a press secretary, a remark by the President, and we can't——

Mr. SALINGER. You can certainly quote the President's remarks at the press conference.

Question. But we are on background when you are discussing something the President said in the press conference.

Mr. SALINGER. Certainly what the President said in the press conference is on the record.

Question. Smitty raised a vital point. The whole device of background, as we understand it, is to protect officials when they are dealing with delicate foreign policy matters.

Mr. SALINGER. You don't think this is a delicate foreign policy matter?

Question. No. You are dealing with the Hill. It is a political matter.

Mr. SALINGER. Maybe Senator KEATING would like it to be.

Question. You have confirmed what he said, but you won't confirm it on the record.

Mr. SALINGER. I am going to stand by what I said and by the rules under which I said it.

Question. What kind of background is this—White House officials, Government spokesmen, or what?

Mr. SALINGER. You can say White House officials.

Question. Pierre, hasn't the State Department, perhaps for background if not officially, put out various figures about the number of ships and personnel and so forth?

Mr. SALINGER. That is correct, and I believe—although I considered this a violation of the rule at the time—I believe that Mr. Wilson's question at the President's press conference last Wednesday was an indication of where some of this information came from.

Question. Pierre, the President, in his press conference, said that as far as we can say now, in the term as it is generally used, we do not know of any Russian troops in Cuba.

Mr. SALINGER. As the word "troops" is generally understood; that is correct.

Question. Are we standing by that today?

Mr. SALINGER. We are standing by that today.

Question. Despite what KEATING said this morning?

Mr. SALINGER. I believe we are having a semantical discussion.

Question. How do you define "troops?"

Question. You have used the words "technicians" and "ships." You have not used the word "troops."

Mr. SALINGER. I am using the words that the President used in his press conference.

Question. KEATING said the word "troops" there, in the commonly accepted term of "troops."

Mr. SALINGER. I agree with what you said.

Question. I agree this is getting into a semantical big, but you said KEATING did not disclose anything which had not been revealed before, and yet he used "troops" and you don't. Do you think there ought to be a separation there?

Mr. SALINGER. I choose to stand by the language the President used in his press conference.

Question. Pierre, is it a correct interpretation for us to say that a high White House official disclosed today that he called the National Broadcasting Co., and corrected something John Chancellor said? The same high White House official said——

Mr. SALINGER. I am not going to tell you——

Question. I know you will not tell us how to write it. But under the ground rules, that is what you are saying.

Mr. SALINGER. Under the ground rules, I would say you would say that a high White House official said that Pierre Salinger, the press secretary of the President, called.

Question. Pierre, how do you define "troops" and what is the difference between "troops" in your definition——

Mr. SALINGER. I will not get into that definition with you, Bob.

Question. Isn't that the problem we are trying to straighten out here?

Mr. SALINGER. I am going to stand by the language the President used. The situation on the broadcast this morning, if I could give you a comparison, would be of a Senator being interviewed on a television show and the Senator said, "Today is Tuesday," and the fellow interviewing him said, "Senator, that is an extraordinary statement." That is what happened this morning.

Question. Pierre, do you know whether the Russian soldiers are in Cuban uniforms in Cuba?

Mr. SALINGER. I have said everything I am going to say on the subject.

Question. Pierre, this is a procedural subject. Could we please clear up now, because it has been going on 18 months, why you cannot allow this to be attributed to the White House Press Secretary?

Mr. SALINGER. I have chosen to do it this way.

Question. Could you explain?

Question. You could put this off the record, if you like.

Question. Could you explain it?

Mr. SALINGER. No, I don't think I am called upon to explain it.

Question. If we go out from here and write a story saying that the White House official today said there was nothing new that hadn't been previously reported about KEATING's report that there were 5,000 troops in Cuba, this is not going to square with my understanding of what the President said. That is the point I am trying to belabor on this.

Mr. SALINGER. Senator KEATING chooses to use "troops" and we referred to them as "technicians," which is our information.

Question. You earlier used the words "military personnel."

Mr. SALINGER. That is right, and the President in his own press conference stated there were military personnel in Cuba and had been for some time.

Question. Would those be prisoners of war under the rules if they were captured, or civilians, or what?

Mr. SALINGER. No, he made a specific reference to a Soviet military mission.

Question. I think besides what KEATING said, Pierre, I keep trying to find out what is a "troop," what is a "soldier." Is a technician with a rifle a soldier?

Mr. SALINGER. The President stated explicitly what our understanding of the situation was last Wednesday. When and if we have any new information, you can be sure we will make it public, and it will not be for background. It will be on the record.

Question. Why does the White House take such an interest in one aspect of our foreign policy and refer to the State Department to take other aspects?

Mr. SALINGER. If you ever end up sitting in this chair, you can take that up.

Question. I am not going to end up sitting there, and you are sitting there now.

Mr. SALINGER. You are a lucky fellow, too.

Question. Pierre, does this administration have any plan for a total blockade of Cuba?

Mr. SALINGER. I am not going to discuss the subject any further.

Question. Pierre, did you call Chancellor while he was still on the air or after he signed off?

Mr. SALINGER. He was still on the air.

Question. What time was this?

Mr. SALINGER. It was about 8:05 this morning.

Question. Did he change his statement?

Mr. SALINGER. He changed his statement on the air afterward.

Question. Who did he say called him?

Mr. SALINGER. He didn't say who called him. He said, "An error has been called to my attention, and in a fast-moving broadcast like this, sometimes we make errors," and he corrected what the President said.

Question. Are you satisfied with his statement?

Mr. SALINGER. Totally satisfied.

Question. There has been reference to British ships carrying supplies to Cuba.

Mr. SALINGER. That question also came up at last Wednesday's broadcast.

Question. Pierre, I am handicapped, not having seen this broadcast.

Mr. SALINGER. You are not really handicapped.

Question. We are all cleared up on troops and technicians, I see, but what about this question of number? The President didn't use any number, regardless of what kind of persons they are.

Mr. SALINGER. Other Government agencies have used numbers.

Question. They say KEATING used two different numbers, 1,200 and 5,000. Which is the Government saying it is?

Mr. SALINGER. Again, I am not going further. I stand on what I said.

Question. You are agreeing with KEATING?

Mr. SALINGER. If you read the transcript of what he said, you can see the context in which he used the figures.

Question. Did the President see the broadcast?

Mr. SALINGER. He did not see the broadcast, nor did I talk to the President before I talked to Mr. Chancellor.

Question. Are there any Chinese troops in Cuba? I am not kidding. Naval officers at Guantanamo said there are.

Mr. SALINGER. I have said everything I am going to say on the situation.

Question. Can you say anything about the situation in West Berlin, the movement of armored cars?

Mr. SALINGER. No.

Question. Pierre, another happy field, what is your attitude toward the Bolivian President canceling his trip to the United States because of the sale of tin out of our stockpile?

Mr. SALINGER. That is a subject which we are studying at the present time, and I would think we would have something to say about that later.

Question. You would think?

Mr. SALINGER. Yes.

Question. Like today?

Mr. SALINGER. It is possible.

Question. Pierre, to clarify the semantic problem on the "troops" or "military technicians," could the military mission in Cuba be compared with our military advisers in South Vietnam?

Mr. SALINGER. I will let you draw that comparison yourself.

Question. In another field, is the President contemplating a nonpolitical or political trip to New Hampshire?

Mr. SALINGER. There is no scheduled trip to New Hampshire at the present time. There are two Senate seats up in New Hampshire and I would not be surprised to see the President go to New Hampshire before the campaign is out.

Question. Would that be sometime near to the 18th when he votes in Massachusetts?

Mr. SALINGER. I couldn't tell you that now.

Question. Pierre, for technical reasons, can we expect the State Department statement on the U–2 before lunch?

Mr. SALINGER. That is possible.

Question. What was the question?

Mr. SALINGER. The question was whether you might expect the U–2 statement from the State Department before lunch. It depends how late you eat lunch, really.

Question. Have you any more jollies?

Question. No, I am clear.

Mr. ENGLE. In other words, Mr. President, on six different occasions authoritative spokesmen for the administration have laid before the American people the full facts as we have them with reference to the military buildup in Cuba. The President stated—and I repeat his statement—that whenever he has firm information he will make it available to the American people. I think he has done so, and the record completely refutes the first statement of the Senator from New York [Mr. KEATING] that the administration should tell the American people the whole truth. The administration has told the American people the whole truth.

I assert that the Senator from New York [Mr. KEATING] was wrong. He implied that the President of the United States and the administration were not giving the American people the whole truth. The fact is that in five separate instances prior to his statement of September 4, the President or administration spokesmen laid the facts on the table.

First, on August 22 at the press conference, in which the President answered specific questions on Cuba.

Second, on August 24, when the press and radio received a complete background briefing—out of which are supplied news stories appearing in the major metropolitan press.

Third, on August 29, when all of the House Members were invited to a briefing on the Cuban situation; and I may add that many attended.

Fourth, when a letter went to the Foreign Relations Committee of the Senate briefing the members on the Cuban situation; and

Fifth, on August 30, in the press conference held by the President, in which he again answered specific questions on the Cuban situation.

In short, in five different instances prior to Senator KEATING's allegation, the President or administration officials had spoken forth on this subject.

So Senator KEATING was wrong. He was wrong also in his statement that 5,000 men in Soviet uniforms were unloaded less than 100 miles off the shores of continental United States. There is no verification of this statement. As the President clearly indicated in his statement yesterday, September 4, there is no verification that Soviet troops are on Cuban soil. I agree that we can argue about what we mean by troops, and whether or not technicians are troops. I assert that technicians are not troops in the general sense understood by the American people—that is, attack forces.

Senator KEATING was wrong in saying, as he did in his speech on the Senate floor on August 31, that "amphibious vehicles were observed." According to our intelligence, there is no verification of that fact.

Senator KEATING was wrong in his implication that the island of Cuba has been turned into an offensive base against the United States and Latin America when he said it was "turned into an armed camp, a smoking grenade in the heart of the Western Hemisphere." The facts are that we have no evidence at all that offensive armaments—and by that I mean armaments for use in offensive combat—are being landed in Cuba.

The only evidence we have is that antiaircraft defensive missiles with slant range of 25 miles have been put in place, together with the attendant radar and electronic equipment, and that certain patrol boats carrying ship-to-ship guided missiles having a range of 15 miles have been put in Cuba. At the present time the armaments being supplied to Cuba appear to be of the defensive type. Nothing in Cuba at the present time could be regarded as a major offensive threat against the United States.

Senator KEATING asserted that the Monroe Doctrine has been violated. The Monroe Doctrine has not been violated. The Monroe Doctrine applies to a situation in which a foreign power by force

overthrows an established regime in this hemisphere. The Soviets are in Cuba by invitation of the Castro government—which came into power before the present administration took office. The Monroe Doctrine, neither in its historical nor its literal sense, applies to a situation in which a government in power invites the assistance of a foreign power and receives such assistance. I should like to place in the RECORD an article, written by the distinguished columnist, Arthur Krock, which was published in the New York Times of September 4. The article deals with the problems of the Monroe Doctrine in the missile age. I offer the article for printing in the RECORD, and also an article entitled "Soviet-Cuban Treaty." The latter deals with the same subject matter, and was published on the same day in the Washington Post.

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

[From the New York Times, Sept. 4, 1962]

EFFECT OF THE MISSILE AGE ON HISTORIC DOCTRINES

(By Arthur Krock)

WASHINGTON, September 3.—It now develops that the United States for some time has maintained a Navy patrol in the high seas off the Cuban ports, its purpose being to try to discover the complete nature of the cargoes and personnel which Soviet Russia has been landing on the island. At President Kennedy's news conference last week the questions addressed to him were limited to his views toward military intervention in Cuba and invasion by the United States. No one asked him about the ever-tightening naval patrol, so that its presence was first established in a Washington dispatch to this newspaper over the weekend.

This is obviously a very cautious operation, despite the fact that there is some fluttering about it in the dovecotes in the Department of State, or it is ineffective for its purpose. That is to acquire sound information on which the President can make a definite determination whether the Soviet supplies to Cuba threaten the security of the United States. For, though the foreign press and leaders of the anti-Castro Cubans in this country report that some of the Soviet "technicians" sent to the island strongly resemble active military personnel, and that some Russian matériel being landed has as much a potential for offensive as for defensive military activity, Mr. Kennedy has announced no official confirmation of either.

If or when this confirmation comes, however, only the consideration of national security will supply the President with a solid foundation for whatever his course of action may be. He repeated last week that the Monroe Doctrine means, and always has, that "we would oppose a foreign power extending its power to the Western Hemisphere." And he automatically found the Soviet Union guilty on this charge by adding that this "is why we are opposing * * * what is happening in Cuba today."

But the contrast between the manner in which this opposition is now being expressed and its historic implementation sharply reveals how the cold war and the transoceanic atomic missile have changed diplomacy and the enforcement of treaties and doctrines. Presidents Polk and Cleveland, for example, were only two of the White House incumbents who warned off projected foreign power expansions in this hemisphere far less menacing than that Mr. Kennedy has certified to be proceeding in Cuba. His "opposition," on the same cited basis of the Monroe Doctrine, has been limited to a cautious naval patrol with inconclusive findings, cutting off our trade with Cuba, and, with small success, asking other members of the Organization of American States and certain NATO allies to do the same.

THE U.S. POWER EXPANSIONS

But though politicians think it necessary to continue to swear unswerving fealty to the Monroe Doctrine, few are unaware that changing times have compelled a new and modified application of it in international practice. To wage the free world struggle against the spread of aggressive international (Russian) communism, the United States has a ring of bases around the Soviet Union, Armed Forces in Europe and Asia and espionage agents wherever their placement helps to assure the security of the Nation. Moreover, Washington some years ago made the Monroe Doctrine a wholesale hemispheric, and hence clearly a much less enforcible, commitment. So that, while President Kennedy expressed the meaning of the doctrine as Monroe, Polk, and Cleveland did, he cannot invoke it with the diplomatic consistency and immunity from disaster they enjoyed.

His one and only test for compulsive action toward Cuba is whether the United States will be endangered otherwise. And two particular cold war developments have made this test even more difficult to resolve. One is that the United States has not only allowed, but initiated, postwar worldwide commitments that tie down its freedom of action as the sleeping Gulliver's was by the people of Lilliput. The second (which is now being demonstrated in Cuba) is that aggression by infiltration, the aggression hardest to prove as justification for military retaliation, is a skill and science in which Moscow excels.

But how refreshing it would be if the President and the Department of State would turn away from slogans and openly concede the new facts of history and diplomacy.

[From the Washington Post, Sept. 4, 1962]

SOVIET-CUBAN TREATY

The Soviet-Cuban treaty may only proclaim transactions already under way for the economic and military supply of Cuba, but it makes it very clear that the relationship that is developing is precisely the sort of connection with a European power which the Monroe Doctrine was intended to prevent.

What was feared in 1823 when the Holy Alliance was threatening the Latin American revolutions was the establishment in this hemisphere of a "political system" that was "essentially different" from that of America. And that is what the democratic countries of the hemisphere have to fear now.

President Monroe's message made quite clear the sort of intervention to which we objected. He said that we would regard as a manifestation of "an unfriendly disposition toward the United States, any interposition for the purpose of oppressing" the South American countries, or for "controlling in any other manner their destiny."

On the foreign acts we found hateful, the Monroe Doctrine was clear and unambiguous. It was not as clear in stating what we would have done if our wishes had been disregarded by the Holy Alliance. There is nothing ambiguous about our feelings today, either, but what ought to be done about the Cuban crisis is not as plain.

The Monroe Doctrine was directed toward an impending threat and an imminent hazard. The threat and the hazard did not immediately materialize. There have been occasions when the doctrine was flagrantly disregarded, however. And this country has not always been ready to fly instantly to arms. From 1862 to 1867, Great Britain, Spain, and France intervened in Mexico's affairs and on the withdrawal of Great Britain and Spain, France put Emperor Maximilian on the throne and Austria supported him with arms. Secretary of State Seward wrote reproachful notes. The House adopted a resolution stating:

"Resolved, That the Congress of the United States are unwilling, by silence, to leave the nations of the world under the impression that they are indifferent spectators of the deplorable events now transpiring in the Republic of Mexico; and they therefore think fit to declare that it does not accord with the policy of the United States to acknowledge a monarchical government, erected on the ruins of any republican government in America, under the auspices of any European power."

Secretary of State Seward warned in 1862 that "no monarchical government which could be founded in Mexico, in the presence of foreign navies and armies in the waters and upon the soil of Mexico, would have any prospect of security or permanency." Events vindicated his judgment in 1867 when Maximilian was killed and his regime overthrown.

It may be said with equal confidence that no Communist regime, "in the presence of foreign navies and armies" in the waters about it and on the soil of the country, has any good prospect of "security and permanency." We are indebted to the Soviet Union and to the Government of Cuba for an agreement that ought to make the foreign nature of this Government clear to the whole Western Hemisphere and to the world.

Mr. ENGLE. Mr. President, what is our position? I think the President made it very clear in his statement of yesterday. He alluded to the defensive nature of the arms and equipment presently being unloaded in Cuba. Apparently, it is the purpose of the Soviets to bolster the fears of the Cuban people aroused by Castro that they may be invaded. The fears have been added to by some of the emotional statements made with reference to this subject, particularly those that call for an immediate invasion of Cuba. The action of the Soviets clearly gives support to the Cuban regime which plays upon the fears of the Cuban people. It is not helpful to us to have those fears substantiated by emotional statements from Members of this most deliberative body in the world.

As long as the equipment landed in Cuba is defensive in nature, it poses no threat to the United States or to our Latin American neighbors. Even offensive equipment of certain types would not pose a major threat to the United States. Can anyone imagine Cuba's initiating an invasion of the United States?

On the other hand, if ground-to-ground missiles are put in place in Cuba, they could deliver a nuclear warhead against targets in the United States. I think it is clear that in that event we must take action immediately. I believe that the Cuban Government, and the Soviets, too, ought to be put on notice that if ground-to-ground missiles capable of carrying nuclear warheads are put in place in Cuba, we intend to move to take them out. Otherwise, our policy will be to interdict—to stop—the export of arms, propaganda, and the Communist philosophy from Cuba into the Western Hemisphere. We should pursue every reasonable method which will make that possible.

Finally, I emphasize that we must see the situation in Cuba in the perspective of the global obligations of the United

States of America. We are faced with problems in Berlin, in Europe, in Vietnam, in Laos, in the Far East, in the Mideast, and in Africa. Cuba is a carbuncle in the Caribbean—and not, at the moment at least, a cancer. We should treat the Cuban situation like a carbuncle—isolate it and prevent its spread. But we should not be led into unreasonable emotional or extreme actions that can only disrupt our international relationships. In short, I am confident that the President of the United States will continue to respond on the basis of an objective analysis of the facts to the situation we face in Cuba.

I am glad that we have a President of the United States young in years but old in judgment who calmly responds and coolly responds to one crisis after another, as he will to the one in Cuba.

Mr. KEATING. Mr. President——

The PRESIDING OFFICER. The Senator from New York.

Mr. KEATING. Mr. President, I shall not detain the Senate very long at this hour. I shall speak at greater length tomorrow in answer to the distinguished Senator from California and with reference to further matters on the situation in Cuba.

First, I welcome and I commend the President of the United States for speaking out on this subject. I want to make it very clear—let there be no doubt about it—that I have never said that the President, or, indeed, the administration, has made an untruthful statement about Cuba. I have said that the whole story has not been told the American people. That is still the case, Mr. President, even after the latest White House announcement yesterday.

If the Senator from California contends that the administration has made available to the people the facts contained in my remarks on the Senate floor last Friday and yesterday, all I can say to him is, Where was our most efficient press corps, the greatest press corps in the country, and perhaps in the world?

The fact is that all the administration announced, until yesterday, was general information similar to a very recent letter I received from the State Department. I apologize for the embarrassment which I am sure I am about to cause the Senator from California. On the 14th day of August, in an effort to get some official information, I wrote to the Department of State to ask them about Cuba and the buildup there, if there was one. Sixteen days later, on August 30, the Department wrote a letter to me, which arrived at my office just today. I quote one paragraph of this letter dated August 30, the very day the President made some important comments on Cuba at a press conference. This letter—an incredible letter in the light of what has happened since August 30, and indeed what had happened before that—reads in part as follows:

Several Soviet passenger and cargo ships arrived in Cuba during late July and early August—

I interpolate to say that "several" is a board word. The Department said nothing about the number, the large number, involved—

carrying large quantities of supplies and substantial numbers of technicians of various kinds.

The Department has established that personnel landed from approximately five of the ships. We have no specific information about the number of persons.

I repeat, Mr. President, "We have no specific information about the number of persons."

We have no information that any Soviet-bloc troops have landed in Cuba. Although the full significance of these developments is not yet clear, there is no evidence that supplies and technicians have arrived in Cuba in such numbers as to provide support for external aggression from Cuba against other countries.

The Senator from California also maintains that these weapons in Cuba are defensive.

Mr. ENGLE. Mr. President, a parliamentary inquiry. Will the Senator yield for a parliamentary inquiry? Who has the floor?

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. KEATING. I will yield for a parliamentary inquiry, if the Senator wishes to make it.

Mr. ENGLE. I wanted to find out who had the floor, because I wanted to know who was yielding to whom.

Mr. KEATING. I have the floor at the moment, I believe.

Mr. ENGLE. That is very fine. I am glad to have the Senator have the floor.

Mr. KEATING. I am sure many unhappy Cuban people do not regard these as defensive weapons. I am sure Cuba's Caribbean neighbors do not regard them as defensive weapons.

A gun—and there are plenty of guns there—a tank, a Mig airplane, can be offensive as well as defensive. It is a question of who holds the gun. It is defensive or offensive according to the intentions of the man who triggers it.

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

Mr. KEATING. I would like to complete my statement, as the Senator did.

Mr. ENGLE. Very well; go ahead.

Mr. KEATING. I did not interrupt the Senator from California. I would prefer to complete my statement, if I can, but I am willing to yield for a question.

Mr. ENGLE. Very well. Proceed.

Mr. KEATING. Who is to say whether a weapon is offensive or defensive? It depends entirely on the direction in which it is aimed.

Ground-to-air missiles, it is said, are defensive weapons. They can be. But is it defensive to fire on an American plane over international waters, as was done last week?

The Monroe Doctrine, I contend, has been violated. I will speak at greater length on this question tomorrow. I intend to quote from the Monroe Doctrine and I will also discuss some of the historical background of this important policy pronouncement.

Mr. President, the Monroe Doctrine has been violated. What is more, it has been drastically reinterpreted in recent months. It now applies to all Latin American countries except one—Cuba. It is a Monroe Doctrine minus one. Apparently, we do not now object to the fact that Cuba is a base for foreign imperialism. We will only object if this Communist imperialism is extended to other nations by Cuba. Presumably, also under the interpretation of the Senator from California, we would not object elsewhere if local Communists took over by a coup d'etat, and then invited Mr. Khrushchev's troops in. In fact, it is beginning to look as if the only nation that the Monroe Doctrine does not clearly apply to is the United States.

As I have said, I shall have some further comments tomorrow. I appreciate this opportunity to reply briefly tonight to the Senator from California.

Mr. ENGLE. Mr. President, let me summarize very briefly what I said. I said that what is being moved into Cuba today is in the nature of defensive or passive systems. They have an antiaircraft missile which is as obsolete as our old Nike. It will shoot 25 miles. Some patrol boats are going in there. They have radar and electronic equipment going with them.

My complaint about the statement made by my friend from New York is that he said the President was not telling the American people the truth, or all the truth; and what I said was that on August 22 the President in his press conference made a statement on this subject matter.

On August 24 the press and radio personnel were given a background briefing. I have a copy of the transcript. The press releases are before every Senator.

On August 29 there was a briefing for all House Members who wanted to attend.

On August 30 the same information was sent to the Foreign Relations Committee of the U.S. Senate.

On the same date, August 30, the President of the United States himself again answered questions with reference to the Cuban situation.

In other words, in five instances the President of the United States gave the people of America the best information he had. There may have been other information, but to say that it was firm or solid is another matter, because "intelligence" is what intelligence is. Sometimes intelligence is good and sometimes it is not. It must be verified.

The President spoke today about the installations in Cuba. The first information he had on that subject was last Friday. This information has to be evaluated. It has to be taken "over the coals" to see whether it makes any sense.

The President of United States has clearly kept his word, which he gave in his press conference, which I read, in which he said that as fast as information became available he would give it to the American people.

Secondly—and I emphasize this—our posture is that when the Cubans are dealing in the area purely of defensive armaments we are not so much concerned. If they ever should get into a posture in which they have offensive armaments, either to invade other Latin American countries, or have ground-to-ground missiles—and this is important—

which could deliver a nuclear warhead against the cities of the United States we must take action; and I will so urge on the Senate floor. Those are the two points. That is the position we take. That is the position I wish to reaffirm as I close.

THE WESTERN STATES DEMOCRATIC CONFERENCE

Mr. MORSE. Mr. President, several weeks ago I accepted an invitation extended to me by the Western States Democratic Conference to make a speech at their opening banquet in Seattle, Wash., the night of August 5.

The Western States Democratic Conference is a conference of Democratic leaders of the 13 Western States, including Hawaii and Alaska. The conference this year was dedicated to a discussion of the great problems which involve the welfare of the people. It sought to call the attention of the Democratic Party and the American people to the fact that, when all is said and done, in a democracy the thing which counts most happens to be the welfare of the people. It was a conference which, on the basis of the program and the agenda announced in advance, sought to challenge the Democratic Party to keep faith with Jeffersonian democracy and to put the rights and interests of the people always first.

It was a great honor to accept that invitation. The chairman of the Western States Democratic Conference this year was the national committeeman from my State, a great Democrat, a fine lawyer, a leader in my State for years, a former Assistant Secretary of the Interior, C. Girard Davidson.

I responded to the invitation by preparing a manuscript for a speech which I proposed to deliver at the conference.

I arrived at Seattle in the early evening of August 5, having previously released my speech to the press. When I arrived at the banquet the chairman of the conference and the other members on the program committee discussed with me the subject matter of my speech.

It will be recalled by the present Presiding Officer of the Senate [Mr. LONG of Hawaii in the chair], that August 5 was in the midst of the period when the Senate was engaged in the debate on the satellite communications bill, a bill with respect to which the Democratic Party made a sorry record and took an action in collusion with the Republicans in the Senate which, in my judgment, will rise to plague the Democratic Party for years to come, and so long as it permits the communications satellite law to remain on the books without drastic revision and amendment.

I knew the party-splitting nature of that subject matter. The manuscript which I prepared for the Western States Democratic Conference did not have a word about the satellite communications bill in it. But the manuscript, which I shall have printed in the RECORD shortly, devoted itself to the accomplishments of the Kennedy administration and pointed out the record which we were making in the Congress. I am proud to stand on that record. I was pleased to present that record to the Western States Democratic Conference.

When the chairman of the conference, Mr. Davidson, and his associates on the program committee of the Western States Democratic Conference learned of the subject matter of my speech and read my speech, they goodnaturedly said, "That is not the speech we want you to give. There is only one thing we want to hear from you, because all afternoon in one of our general committees there has been a prolonged discussion and considerable controversy over the position of the Kennedy administration on the satellite communications bill, and that is the subject matter we want discussed. We think you should know that the point of view which you and your associates in the Senate in opposition to the bill have been presenting to the American people in recent days is clearly the point of view of the majority expression which we heard all afternoon in our discussion of the subject matter in this conference."

I pointed out to the chairman of the conference and to his associates that the other side was not represented, that I thought, if we were going to have a discussion of the satellite communications bill, someone should be there to represent the administration's point of view. I pointed out that, although I did not share the point of view of the administration and thought the administration was making a horrendous mistake, a mistake which could not be reconciled with the thesis of the Western States Democratic Conference—namely, the thesis of putting the interests of the people first, rather than brash materialism as to passing a bill which, for the first time in all of America's history, would legalize a cartel, nevertheless I did not share the view that my speech ought to be on that subject matter.

I was a guest of the conference. I was urged to accede to their wishes for a discussion of the satellite. A decision was reached whereby I presented my speech as written, and briefly summarized my position and the position of my associates in opposition to the satellite bill.

I ask unanimous consent that the manuscript of the speech which I had prepared and delivered at the banquet to which I referred on August 5, 1962, at the Western States Democratic Conference be printed in the RECORD at the close of my remarks tonight.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(See exhibit I.)

Mr. MORSE. Mr. President, the chairman of the banquet was one of our great Democrats of the West. He is one of the great Democratic Governors of the Nation—Governor Rosellini of the State of Washington. In attendance at the banquet was the national chairman of the Democratic Party, Mr. John Bailey.

In the course of my speech on the satellite bill I pointed out that the Democratic Party had a major responsibility of keeping the contract that it had entered into with the American people at Los Angeles, in 1960, when the Democratic Party presented its platform to the American people.

I apparently hold to the old-fashioned view that a political platform is a contract that a political party offers the voters, and that the consideration involved in that contract, as we lawyers say, happens to be the commitment for deliverance on the planks of the party platform in exchange for the votes of the people who have faith in the platform and confidence in the good faith of the party which offers the contract to the American voters.

In my Seattle speech I pointed out that the Democratic Party still had a long way to go to carry out its pledges and promises made in 1960. I pointed out that there was no plank in the Democratic platform of 1960 which promised the American people that the party would set up the most powerful monopoly in the history of our country and turn over to that monopoly billions of dollars of American taxpayers' investment in the space satellite system that we have developed at great cost to the American taxpayers and to the profit of the first cartel in our country.

We have set up a monopolistic combine that throws out free enterprise, for there is no free enterprise in the cartel system under the space satellite law that the Senate unfortunately passed and that the President unfortunately signed. Under that law those corporations in America that are not among the select few named in the cartel are on the outside looking in. They must come to that cartel with hat in hand and make whatever deal, if any, they can make with the cartel to participate in the development of a space satellite communications system.

Not only am I shocked by it, and not only was that little band of willful men and one woman shocked by it during the historic debate, but with every passing day increasingly thousands of American citizens are shocked by it as they begin to understand the tremendous giveaway of the Kennedy administration under a Democratic banner of the satellite systems in collusion with Republicans on the other side of the aisle.

When it was discovered that every Republican was for the bill, that ought to have been enough warning to the Kennedy administration to stop, look, and listen in regard to the dangers of the bill. But the bill passed, and it is legislative history. Those of us who stood on the floor of the Senate as liberals have stood up before against a galloping wrong majority in the Senate. But we are proud of the record we made and we are perfectly willing to let history—yes, and the American voters—be our judges.

Mr. President, in the course of my speech at the Seattle banquet I set out the major reasons and arguments of those of us opposed to the bill. The national chairman of the Democratic Party was present. There is no question about the fact that I discovered after the banquet that the point of view that I had expressed was the point of view that had been shared and expressed by many of the delegates at the conference in a controversial debate that afternoon preceding my speech. At the time I was not aware of the arguments

that had been made. I had only been told by members of the program committee, "There was a hot debate and a controversial discussion of the subject this afternoon."

Following my speech at Seattle I returned to Washington, D.C. After the Western States Democratic Conference adjourned the following Wednesday, the chairman of that conference, Mr. C. Girard Davidson, flew to Washington, D.C., and gave me an account of the happenings that followed my speech. I had been receiving telegrams and long-distance calls protesting the action taken by the chairman of the national Democratic Party, Mr. John Bailey. I received many communications from the conference in support of the position I had taken. I was in no way responsible for the fact—nor did I know it when I left Seattle—that in the discussion that afternoon in the committee meeting, previously referred to, it had been proposed that a resolution be offered at the conference protesting immediate action on the satellite bill by the Senate, and recommending that action on the satellite bill be postponed until after the election, and that it then be taken up after the bill had gone to the American people for discussion in a political campaign. They apparently were aware that that was the position that this little band of willful men and one woman had taken in the historic debate on the subject in the Senate. Mr. Davidson reported to me that the day following my speech the national Democratic chairman, Mr. Bailey, used all the influence at his command not only to seek to prevent consideration of what became known as the resolution in support of Senator MORSE's position, but to obtain support in the conference for a resolution that would support the administration's position on the satellite bill.

This apparently caused a great deal of ill feeling, conflict, and controversy. Mr. Davidson reported that the national Democratic chairman met with individual delegations and made it very clear that support of the resolution that became known as the Morse resolution would meet with his ill favor. Many of the Democrats at the western conference took the view—and I share the view—that the national Democratic chairman was acting in a field that was none of his business. If he wants to follow that course of action, he may. That is his business. I will make it mine, too.

Then two spokesmen for the administration appeared on the program. One of them was the Attorney General of the United States, the brother of the President. He spoke at a breakfast, and made a very fine speech, as the Attorney General can. But the chairman of the conference, Mr. Davidson, reported to me that Mr. Bailey saw to it that a delegate favorable to his point of view asked the Attorney General a question, in order to open up the satellite discussion. Then followed a discussion on the part of the Attorney General, which he had a perfect right to engage in. I heartily approve his right to engage in it; but the discussion was exceedingly critical of the position taken by the senior Senator from Oregon, the result being further dissension and conflict in the conference. Another representative of the administration in a banquet speech made certain comments, which I am satisfied were made in good faith and in a jocular vein, but which were nevertheless misinterpreted by the conference. A serious controversy was opened up.

Out in the West we do not run away from a controversy; nor are we afraid of ideas; nor are we rubber stamps for any administration on any issue, our own or any other. When we think an administration is wrong on an issue, we keep faith with our trust as officeholders and follow where the facts lead. We do not hesitate to make clear our opposition when we think our administration is wrong, as the Kennedy administration was dead wrong on the satellite issue. As a result of the controversy it was decided that no resolution would be passed, neither in support of those of us who were opposed to the administration's position, nor in support of the administration's position. But the fact that no resolution was offered was picked up by the anti-Morse press and presented to the voters of my State in journalistic colorful language interpreted to mean that the Senator from Oregon had been repudiated at the conference. This so incensed the executive committee of the conference that on Sunday, August 12, 1962, the executive committee of the conference issued the following press release:

Newspaper misinterpretation of western sentiment, following alleged failure of leaders to stand by WAYNE L. MORSE, Democrat, of Oregon, on the satellite communications bill at a Western States Democratic Conference meeting in Seattle this week, resulted in a long distance caucus of the Western States Democratic Conference executive committee which today released the following statement:

"In view of statement of President Truman and testimony at hearings raising serious unanswered questions we request postponement of congressional consideration of Telstar bill for several months to allow full hearing and resolution of issues raised."

Executive committee was canvassed by Herb Legg, State chairman of the Washington Democratic Central Committee and member of the Western States Democratic Conference executive board, in the absence of C. Girard Davidson, executive committee chairman, who is in the East.

Lucy Redd, national committeewoman from Utah and member of the executive committee, pointed out in her wire supporting the request for delaying vote on Telstar bill that Roger Kent's position was against any stand which might be considered anti-administration. Kent is the newly elected chairman of the Western States Democratic Conference.

The Western States Democratic Conference had decided in Seattle to exert its influence on congressional delegations internally and to bypass resolutions which could be misinterpreted by press as anti-administration or anti-MORSE.

The statement just released by the executive committee reflects the majority opinion of that group.

Mr. President, I put my speech and this news release in the RECORD tonight so that there may be an official record to turn to in reply to the twisted, deceptive, and distorted articles of the anti-Morse journalists in my State. I have the assurance of Mr. Davidson and many members of the Western States Democratic Council that there was no question about the sentiment of that council being opposed to the position of the administration in regard to the gigantic and shocking giveaway of the people's interests in the space communications system in which the people had invested huge sums of money.

I say to Mr. Bailey that there is no place in the West for the machine politics which he apparently is so accustomed to in the East. As far as my campaign is concerned, I can conduct my campaign for reelection to the Senate without any assistance or any opposition from Mr. Bailey. As far as the senior Senator from Oregon is concerned, Mr. Bailey is welcome to stay as far away from the State of Oregon as Connecticut, because we need no help from him in Oregon. I want no help from him in Oregon, because no one gets a second opportunity to try to cut my throat. Once he is off my list, he is off my list. That is the position that Mr. Bailey occupies tonight.

EXHIBIT I

REMARKS OF SENATOR WAYNE MORSE AT WESTERN STATES DEMOCRATIC CONFERENCE, SEATTLE, WASH., AUGUST 5, 1962

Governor Rosellini and fellow Democrats, this year of 1962 presents a unique challenge to Democrats here in the Northwest and everywhere in the Nation. It is to break for the first time since 1934 the so-called tradition that the party holding the Nation's executive offices loses votes and seats in Congress in a nonpresidential election year.

I am here today to tell you that we can break that pattern and that we need to break it if the welfare of the American Nation and the American people is to be served.

We have in President Kennedy a man who is doing his utmost in urging and arguing with Members of Congress to get enactment of a whole program of progressive domestic legislation. What we must do in each of our States, and what President Kennedy must do throughout the country, is to explain to the people this fall the need for the legislation, which remains to be passed.

We have already accomplished a good deal. The first major legislation of the new administration and the 87th Congress was the Area Redevelopment Act, a measure twice vetoed by the previous administration. Since the first funds for the area redevelopment program were appropriated last September, 76 projects have been approved for assistance.

They have meant an investment of $32½ million in Federal funds which have helped create an estimated 17,500 direct new jobs and some 12,000 indirect jobs. Communities have been surveyed to determine their extent of chronic unemployment, and over 900 have been designated as eligible for this infusion of capital to stimulate business and employment. They include within their borders a third of the Nation's unemployed.

This Federal capital has been matched with $35 million additional from non-Federal sources. And this is only the beginning. Eight hundred more projects are in the works.

We have also enacted the Manpower Development and Training Act, designed to cope directly with the problems of automation by training displaced workers in new and marketable skills. Under it, over 100,000 men and women will be trained in skills for which there is a demand in business and industry.

Other legislation has strengthened the minimum wage law and unemployment

compensation. All these measures are in keeping with the tradition of the Democratic Party—and in my opinion, its historic obligation—to serve the human welfare needs of the American people. Franklin Roosevelt made countless contributions to human progress; but in many ways the greatest was his determination that human beings must not become mere victims of economic forces. He established once and for all in this country the policy of using Government to make certain that the economic system serves people, and not the other way around.

One of his great legacies was the Employment Act of 1946, and I was proud to be a leading cosponsor of it, along with such great western Senators as Senators Murray and O'Mahoney.

The legislation I have described is in keeping with the Roosevelt legacy. It is designed to assure that the blessings of automation do not become a curse for those displaced by it, and a drag upon our productive capacity instead of a boon to it.

We have also enacted a new housing law, one which has helped boost new private home construction to record levels.

Some progress has also been made in a field of special interest to the western conference—conservation of natural resources. We have begun a model range rehabilitation program. We are making progress in improving the management of our forests. Recreation has finally been recognized as an industry and as a requirement of our expanding population which no longer can be left to chance. Recreation is now a part of Federal project planning, along with other benefits.

We have also expanded greatly on the water pollution control program, having passed legislation on the subject which had previously been vetoed. As a result, we are better able to combat pollution of our water supply and we are helping local communities finance public works which they otherwise would have to set aside, in most cases.

In the international field, we have made the first new advances in foreign policy in almost a decade, with creation of the Peace Corps and the Disarmament Agency. Through them, we have been able to present to the non-Communist world something of the best of America, and demonstrated that the United States stands for something beside "massive retaliation."

MUCH REMAINS TO BE DONE

But we still have a lot more to do. Many key features of the Democratic platform and the President's legislative program remain unenacted. In education, medical care for the elderly, general public works, meaningful tax revision, civil rights, and farm legislation we must still make good our campaign promises of 1960.

Fortunately, the Democratic Party has never shunned critical self-appraisal. We must be the first to understand our shortcomings, and not wait for the voters to educate us on election day.

We still have a long way to go in carrying out our pledges and our platform. More than that, we have concentrated on discussing the legislative program with each other, and not with the voters. We have not done nearly enough of explaining to the American people the economic and international problems they face, and what we Democrats are trying to do about them.

The President rightfully called for a dialog among businessmen and Government about budget policies; but it remains for concrete proposals to be made which will require public attention and consideration of budget policies.

We have not, for example, done much to explain the need for a capital budget which, in my opinion, is vital to the health of the economy as well as to resource development. The separation of wealth-producing investments from operating expenditures has a profound bearing on the whole question of getting the country moving again. My own capital budget bill is drafted as an amendment to the Employment Act of 1946, because I recognize that the public panic over what looks like deficit spending is often due to a misunderstanding of the budget.

My request of last April to the Budget Bureau to show me how the current budget would look in the form of a capital budget has so far brought no response. When the Budget Bureau in the Truman administration prepared it in that form, it showed about $1 in $5 as an investment.

Neither have we explained to the American people that in relation to other factors in our economy, the debt is not as serious now as it was at the close of World War II. In 1946, it was 133 percent of our gross national product, whereas today it is 50 percent. Even our population has expanded to the extent that the per capita national debt is much smaller than in 1946.

Like any other economic unit, we should feel confidence, not fear, from the fact that our income and our assets have risen several times as much as our debt has risen. This does not mean that debt is a good thing; but let us keep it in perspective.

The Republicans refuse to do this, and in too many cases have been allowed to carry the day with their false charges that the Democratic Party is a party of deficits and debts We are the party of progress and prosperity. The GOP knows the cost of everything and the value of nothing. We must take the economic battle to them, starting right now.

DEMOCRATS MUST CAMPAIGN ON ISSUES

From the President on down, Democratic candidates need to talk issues to the American people. Let us remember that whenever America is determined to be governed by reactionaries, Republicans and not Democrats are picked for the job. We have never yet beat Republicans by being more conservative, and we never will.

We win when we have faced up to the needs of the times, drafted a program to meet those needs, and taken our case to the people in determined and outspoken fashion.

Our form of government is not essentially one of a dialog among the "in group." In the end, it is a dialog between those who go to the polls and those who run for office.

I do not know of any domestic or international issue on which Democrats need to shun full and open debate with our Republican friends. I do not know of a single foreign or domestic issue in which they have the better case.

We have only scratched the surface on medical care for the elderly. We have yet to explain the facts and comparative merits of the Anderson measure, putting it under social security, as against exclusive reliance upon some form of public assistance.

We have never really explained the capital budget at all, and what it could mean in providing a sound standard of investment in all resources and in economic growth.

Our reasons for believing a full executive department is needed for urban problems have never been fully spelled out.

The Republican responsibility for food storage gluts which gave rise to the Billie Sol Estes scandal has yet to be pinpointed.

Too little has been said to the American people about the U.N. bond issue, and its importance, or about the use of the World Court to help settle those disputes among nations which are really legal controversies.

The effect of the "education gap" on the next generation and its status in world affairs must be discussed at every political campaign meeting.

These are the things we must do if Democrats are to be elected this fall, President Kennedy reinforced for his race of 1964, and the welfare of the American Nation and the American people is to be served.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

BILLS INTRODUCED

Additional bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WILLIAMS of New Jersey:

S. 3697. A bill for the relief of Jose Maria Lago Vazquez and Manuela Fernandez de Lago; to the Committee on the Judiciary.

By Mr. DIRKSEN:

S. 3698. A bill to incorporate the McCarran Foundation, and for other purposes; to the Committee on the Judiciary.

(See the remarks of Mr. DIRKSEN when he introduced the above bill, which appear under a separate heading.)

INCORPORATION OF THE McCARRAN FOUNDATION

Mr. DIRKSEN. Mr. President, 8 years ago this month the Senate of the United States lost the services of one of the great legislators of this century when Senator Pat McCarran, of Nevada, died suddenly in his home State following a heart attack.

Senator McCarran's accomplishments included the Administrative Procedure Act, the Internal Security Act, the Immigration and Nationality Act, the Federal Airport Act, and a great many other monuments to his skill as a legislator, his capacity for hard work, his dedication to the welfare of this country, and the esteem in which he was held by his colleagues.

I introduce, for appropriate reference, a bill which would grant a congressional charter to the McCarran Foundation, a proposed nonprofit educational and patriotic foundation which would honor the name and the memory of our departed colleague by seeking to carry forward some of the objectives which he always held close to his heart: development of a better knowledge and understanding of the philosophy and basic principles of the Declaration of Independence and the Constitution of the United States; development of ways to make patriotism, Americanism, and good citizenship more effecitve; and broadening of the knowledge and understanding of all the people of the Nation of what it means to be an American.

The individuals who are named in this bill as the founding members of the McCarran Foundation are all persons of high standing and character. Two of Senator McCarran's children are included in this group, which also includes two judges of U.S. circuit courts of appeals, judges of the Nevada State Supreme Court, and a past president of the American Bar Association, among others.

This bill complies in every way with the longstanding requirements of the Senate Judiciary Committee respecting the form of congressional charters. For instance, the bill specifically provides that the foundation may not engage in any political activity, and this is spelled

out in specific language which bars the foundation and its members, officers and trustees, as such, from contributing to or otherwise supporting or assisting any political party or candidate for elective public office, or from advocating, sponsoring, promoting, or opposing legislation in the Congress of the United States or in the legislatures of the several States.

I might also point out that enactment of this bill does not involve either authorization of any expenditure of Federal funds nor any Federal appropriation.

I believe it is an entirely proper and fitting tribute to the late Senator McCarran that this bill should be enacted, and I do not believe there is any likelihood of any opposition from any of my colleagues.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3698) to incorporate the McCarran Foundation, and for other purposes, introduced by Mr. DIRKSEN, was received, read twice by its title, and referred to the Committee on the Judiciary.

REVENUE ACT OF 1962—AMENDMENTS

Mr. MILLER submitted amendments, intended to be proposed by him, to the bill (H.R. 10650) to amend the Internal Revenue Code of 1954 to provide a credit for investment in certain depreciable property, to eliminate certain defects and inequities, and for other purposes, which were ordered to lie on the table and to be printed.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. MORSE. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 11 o'clock and 48 minutes p.m.) the Senate adjourned, under the previous order, until tomorrow, Thursday, September 6, 1962, at 9 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate September 5, 1962:

DISTRICT OF COLUMBIA JUVENILE COURT

Morris Miller, of the District of Columbia, to be chief judge of the juvenile court of the District of Columbia for the term of 10 years. (A new position.)

Marjorie McKenzie Lawson, of the District of Columbia, to be associate judge of the juvenile court of the District of Columbia for the term of 10 years. (A new position.)

IN THE NAVY

The following-named (Naval Reserve Officers' Training Corps candidates) to be permanent ensigns in the line of the Navy, subject to the qualifications therefor as provided by law:

Larry R. Croll
Colin M. Clark

John N. Hendricks (Navy enlisted scientific education program) to be a permanent ensign in the line of the Navy, subject to the qualifications therefor as provided by law.

Jesse W. Armstrong (Navy enlisted scientific education program) to be a permanent lieutenant (junior grade) in the line of the Navy, in lieu of ensign as previously nominated and confirmed, subject to the qualifications therefor as provided by law.

Robert M. Wells (civilian college graduate) to be a permanent lieutenant and a temporary lieutenant commander in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law.

The following-named (Naval Reserve Officers) to be permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Adib H. Barsoum	"J" Jerome Rinaldi
James W. Hayes	Norman Ronis

The following-named (Naval Reserve Officers) to be permanent lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Michael J. Dunne	Robert M. O'Brien
Luther C. Hansbarger	José C. S. Smith

The following-named (Naval Reserve Officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Richard E. Cannon	Thomas J. McGeoy, Jr.
Dale L. Eichelberger	Iwao Shiraki
Gary L. Kellett	Michael D. Smalkin
George R. Looney	

Vernon L. Redfield, U.S. Navy retired officer, to be a commander in the line of the Navy, for temporary service, pursuant to title 10, United States Code, section 1211.

The following-named personnel to be permanent ensigns in the Medical Service Corps of the Navy, subject to the qualifications therefor as provided by law:

John R. Baird	William C. Parrish
Gary D. Brown	John A. Peck
Clarence L. Carnahan	Warren R. Peterson
Richard A. Cusick	Durward L. Rhodes
John D. DeLaughter	Clarence B. Saye
Alexander R. Duncan	Robert S. Skelly
Casper J. Gogel	Richard A. Stayton
Thomas A. Hill	Charles J. Theisen, Jr.
Lawrence T. Kinsella	John R. Tucker
James S. McGuire	Elaine J. Walter

The following-named personnel to be ensigns in the Medical Service Corps of the Navy, for temporary service, subject to the qualifications therefor as provided by law:

George H. Ashton	Romeo G. McCurry
Donald E. Baker	Donald A. Perry
John S. Cannizzaro	Paul A. Praria
Jake R. Carroll	William L. Self
Robert S. Cunningham II	Andrew F. Slover
	Curtis W. Sperry
John H. Gannon	Chester Tworzyanski
Humphrey G. Gaunce	Delmar L. Tilton
Kenton W. Gay	Robert O. Wallace
George J. Greider	Carl A. Wesolowski
Richard T. Hall	Harry G. White
Jay A. Johnson	Joe Winningham
Robert A. Johnson	

The following-named officers of the Navy for permanent promotion to the grades indicated:

LINE

To be captains

James B. Cain	Armistead B. Smith, Jr.
Robert R. Sparks	Louis L. Milano
John W. Fair	John W. Crawford, Jr.
Richard W. Hyde	Maximilian W. Munk
Frederick W. Oliver	Frank A. Andrews
Eugene R. Hanson	William P. Willis, Jr.
John "L" Butts, Jr.	William R. Kurtz
Edgar L. Margolf	William E. Betzer
Colin J. Ricketts	Vernon E. Binion
Harry E. Sorenson	William L. Newton
Wade W. Lape	William E. Heronemus
Roy M. Voris	Robert D. McWethy
Lloyd D. Ruth	
Richard H. Mills	
William J. Moran	
William M. Montgomery	George H. Mahler III
William R. Werner	Frank M. Blanchard
Edwin E. Kinter	John C. Hill II
John J. Hinchey	Kendall W. Simmons
Kenneth E. Gulledge	John W. Maddex
Lewis J. Stecher, Jr.	Parker B. Armstrong
Charles N. Payne, Jr.	Davis E. Bunting
Wallace H. Garrett, Jr.	Lindsay C. McCarty
Charles B. Momsen, Jr.	Roy J. Robison
Robert G. Mills	William J. Hurst
George G. Halvorson	John D. H. Kane, Jr.
Francis S. Knight	Eugene C. Barnhardt III
William F. Vose	Richard H. Buck
William D. Spiegel	Jack M. James
Garrison Brown	Richard M. Sewall
George F. Britner, Jr.	James W. Conger
Mark W. Woods	Griffith P. Stokes
Arthur G. Hamilton, Jr.	William F. Farrell, Jr.
Charles B. Bishop	Arthur C. Mullen
James B. Osborn	Leopold Weidlein
Christian Fink	Marcy M. Dupre III
Donald T. Holmes	Frank G. Scarborough
John R. Strane	James T. Alexander, Jr.
Owen L. Maupin	Robert S. Eastman
Eugene I. Malone	Thomas C. Harbert, Jr.
Thomas Turner	Walter B. Woodson, Jr.
Edwin M. Rosenberg	Paul H. Durand
Leonard Erb	Lewis B. Jennings
William A. Arthur	Eric E. Hopley
Robert H. Harwood, Jr.	Paul L. Ruehrmund, Jr.
Charles W. Pittman, Jr.	Daniel E. Bergin, Jr.
Richard L. Corkran, Jr.	Alden W. Whitney
Philip P. Cole	Edward H. Winslow
Mervin O. Slater	Samuel G. Jones
William J. Rusch, Jr.	Carol A. Turner
David G. Adams, Jr.	Joseph A. Bachhuber
John L. Marocchi	Ward S. Miller
William M. Pugh II	Robert B. Poage
William E. Sims	Peter S. Smith
John P. Fox, Jr.	Willard L. Nyburg
Robert C. Knight	Kenneth B. Brown
James F. Schremp	William E. Carver
Harold E. Rice	Gordon C. Buhrer
David C. Peto	William A. Robie
Claude B. Shaw	Alton B. Grimes
John B. Davis, Jr.	Lewis W. Squires
Maddox N. P. Hinkamp	Travis O. Tabor III
Howard L. Stone, Jr.	Norman C. Nash
Henry B. Sweitzer	William E. Simmons
Charles E. Smith	Albert F. Betzel
Gerald E. Peddicord	William G. Weber
Robert E. Mottern	Chester M. Lee
William T. O'Bryant	Charles McF. Young
Theodore L. Balis	John A. Lindbeck
Leo W. Early	William H. Pellett
James D. Small	John J. Rowan
Max C. Duncan	Laurence B. Green
Alvin L. Gallin	John P. Gutting
	Drewery R. Wilhite

MEDICAL CORPS

To be captain

Roderick F. C. Macpherson

SUPPLY CORPS

To be captains

Scott K. Anderson	Winston L. Adair
John S. Coiner	William C. Richardson

CIVIL ENGINEER CORPS

To be captain

Griswold L. Moeller

DENTAL CORPS

To be captains

Wayne A. Nelson
Frank N. Ellis
Lloyd M. Armstrong

LINE

To be commanders

John W. Barden	John B. Griffin
Jesse L. White	Harold B. Boaz
Richard F. Schumaker	Peter Della Rocca

IN THE MARINE CORPS

The following named (Naval Reserve Officers' Training Corps) for permanent ap-

pointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Carl P. Ackerman
Donald F. Anderson
Larry R. Anderson
Michael W. Anderson
Edward M. Arnold
Charles L. Bacon
Allan P. Bakke
James R. Beery
Jerome H. Bentley III
Floyd E. Bertelson
George R. Bettle
Ronald J. Biddle
Max D. Bishop
Michael O. Boss
John W. Boyan
Jon F. Boyer
Clinton E. Braly
Roger S. Bride
Lloyd G. Brinson, Jr.
David W. Brown
Frederick G. Brown
Michael R. Brown
Arthur E. Burns III
James C. Burton
Robert N. Burris
Douglas E. Cameron
Michael J. Carley
Leon G. Chadwick III
Robert C. Champion, Jr.
William B. Charles
William H. Christoph, Jr.
Charles D. Clausen
William C. Clay III
David W. Clingman
Michael E. Cochran
Richard W. Coffman
Walter J. Costello, Jr.
William F. Cox
John D. Dalhouse
James A. Davis
LeRoy G. Davis
Willard H. Davis, Jr.
Walter E. Demick
John J. Devincens
Thomas P. Devitt
William P. Dickson
Ernest L. Dinius
John T. Dolan
David A. Downey
James F. Doyle
Neil H. Drake
Edward J. Dwyer, Jr.
James F. Ellis
Jerrold I. England
Brian J. Fagan
Malcolm B. Farish
Paul I. Faulkenberry
John T. Fischbach
John R. Fischer
Laurence D. Fortin
Robert P. Freeman
Richard A. Frindt
Richard F. Fullerton
Barry L. Garner
William E. Goodman
Charles R. Grant
William R. Green
Bruce D. Greene
John C. Greenwood
Stephen G. Gross
Joseph J. Hanley
Michael H. Harper, Jr.
James H. Harmon
Ronald A. Heintz
Edward M. Henderson,
Wayne F. Henderson
Stuart L. Henning
Walter H. Herkal, Jr.
Jerome L. Hess
Kent R. Hildreth
David P. Hochberg
James V. Hoekstra
Hall Holmes, Jr.
Keith D. Hornbacher
Robert A. Hughes
Richard C. Hulit
Bruce A. Hultman
James C. Hunt II
James J. Jaros
Donald J. Jeruc
Noel J. Johnson
Ward S. Johnson
Jack L. Jones
Norman G. Jungmann
Gerald T. Kalt
Richard J. Kapsch
Richard B. Kenyon
Theodore J. Keskey
John W. Kiser, Jr.
Larry G. Kleiboeker
John M. Klobucnik
William E. Konrath
Leonard R. Krolak
Timothy A. Lamphier
James H. Landgrebe
Michael J. Larson
Frederick Z. Leffler
William E. Leonard
Donald L. Lepsch
Stephen W. Lind
Henry Linsert, Jr.
Ernest K. Little
Charles J. Loch, Jr.
William G. Loeber III
Paul T. Looney
David A. Luhrsen
Robert A. Madeo
Phillip S. Makowka
Frank P. Marczak, Jr.
William R. McCarthy
Thomas A. McGowan
Bruce S. McKenna
Donald L. Meeker
Burton J. Merrick
Terry L. Miner
Patrick G. Mitchell
Anthony A. Monroe
William D. Moreland
David A. Morris
Robert S. Morrison
Richard E. Moser
Charles H. Mulherin, Jr.
Joseph F. Mullane, Jr.
David R. Nay
David A. Nelson
Richard M. Neville
James W. Nichols
Robert L. Oetting
Thomas M. Palmerlee
Henry L. Perzinskas
Lyle F. Pittroff
Ronald J. Plachy
David V. Porchey
Robert D. Porter
Charles P. Preston, Jr.
Ernest E. Price III
Philip Rafferty
John C. Rasnic
Joseph J. Redington III
James M. Richmond
James M. Ritzenthaler
Joseph J. Roniger, Jr.
Donald L. Rosenberg
James P. Ryan, Jr.
Donald J. Saltarelli
Benjamin H. Sanders
Roger D. Santelman
George T. Schmidt
Thomas E. Schwartz
Ronald S. Sciepko
David J. Sconyers
Glen C. Scrimger
Alfred T. Smith
Fred O. Smith, Jr.
William E. Smith
Thomas J. Snee
Robert W. Sonnen, Jr.
Clifford C. Sparks
Larry M. Sparks
James B. Sramek
John R. Stummer
Charles Swinburn
Bruce A. Tester
Patrick L. Townsend
Paul E. Tullis II
Robert S. Urland
Juri Valdov
Charles F. Vance
Thomas L. Vanderham
Gilbert L. Versailles
Bernard T. Walfoort
John S. Walker
Mark P. Wallig
John H. Warner
Daniel J. Wawrzyniak
John R. Weinhart
Peter D. Williams
Michael N. Winkelbauer
Siegfried R. Witt
Harold E. Zealley
John W. Zehnder

The following-named officers for temporary appointment to the grade of captain in the Marine Corps, subject to the qualifications therefor as provided by law:

Bobbie K. Brodie
Franklin H. Heins
Ralph K. Johnson
John A. Martin
Philip M. Schmidt
Raymond F. Wiley, Jr.

The following-named officers for temporary appointment to the grade of first lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Charles R. Allison
Connie A. Barsky, Jr.
Ronald G. Ciccone
John L. Clark, Jr.
William J. Cooper
Frederick B. Craig
John R. Dameron
George G. Dodd
Peter D. Everill
Steven E. Field
Dennis W. Harvison
Richard W. Hooper
Frank J. Horak, Jr.
Julius "P" Kish III
William G. Kogerman
James E. Lary
James L. Lumsden
Gary C. McClellan
Glen H. Oldham
William A. Olson
Charles E. Pattillo, Jr.
Albert J. Ransom
Herbert L. Roberts
Darrell S. Shelor
Cloyce E. Sinclair
Walter R. Smelich
William F. Snyder
David L. Steele
John Telles, Jr.
Charles R. Upshaw
Robert F. Warren
Frederick P. Wibbelsman

The following-named officers for permanent appointment to the grade of first lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Robert M. Balch
Malcolm T. Bird
Herman R. Bolen
Billy R. Bridgewater
Herman C. Brown
Jerome A. Buffington
Orlando L. Busby, Jr.
Paul F. Cameron, Jr.
Teddy J. Campbell
Charles R. Coxe
Herbert E. Craig
Laurence Delmore III
Jay H. Erickson
Dan F. Evans
Thomas C. Hargrove
Robert L. House
Floyd H. Heller
Douglas A. Kiersey
William E. Loftus
David L. McEvoy
Roland S. Merrill
Frank E. Milliner
Wilton J. Norris, Jr.
George E. Perry
Lloyd G. Pool
Lawrence P. Reiman
James L. Riggs, Jr.
Wendell H. Rone, Jr.
Barrett R. Schultze
George F. Sheasley
Leon D. Tyrrell
Roger D. Walters
David G. Workmon

The following named (meritorious noncommissioned officers) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

George E. Bement
Allan E. Berg
Walton M. Brann
Marvin C. Chambers
Lester R. Dearman
Alan B. Godfrey
Edwin A. Hagerman, Jr.
James H. Hanson
Alfred E. Lyon
Gerald G. Madson
Thomas R. Nelson
Paul A. Pankey
William R. Phillips
Lyman W. Vogel, Jr.
Allen B. Webb
Donald A. Wellman
Richard A. Whitehouse
Charles J. Whitman
Thomas J. Wise, Jr.

The following-named officers of the Marine Corps for permanent promotion to the grade of first lieutenant, subject to the qualifications therefor as provided by law:

James E. Givan
Jerrald E. Giles
Jay A. Freeman
John K. Goodyear, Jr.
Robert V. Kurilich
John W. Lewis
William S. Moriarty
Roger K. Ryman
Richard A. Miro
Thomas E. Swyney
James M. Tulley
Samuel S. Glaize
Ronald L. Bub

The following-named officers of the Marine Corps for temporary promotion to the grade of first lieutenant, subject to the qualifications therefor as provided by law:

Carl R. Ariola
Andrew J. Edwards, Jr.
Thomas V. Barrett
Thomas L. Cusick

WITHDRAWALS

Executive nominations withdrawn from the Senate September 5, 1962:

Marjorie McKenzie Lawson, of the District of Columbia, to be judge of the juvenile court for the District of Columbia for the term of 10 years. (A new position.) This nomination was sent to the Senate August 6, 1962.

Morris Miller, of the District of Columbia, to be judge of the juvenile court for the District of Columbia for the term of 10 years. (A new position.) This nomination was sent to the Senate August 6, 1962.

EXTENSIONS OF REMARKS

Consumer Protection Proposals—Truth-in-Lending Legislation Urgently Needed

EXTENSION OF REMARKS

OF

HON. MAURINE B. NEUBERGER

OF OREGON

IN THE SENATE OF THE UNITED STATES

Wednesday, September 5, 1962

Mrs. NEUBERGER. Mr. President, as President Kennedy said in his historic message on consumers' protection sent to Congress last March 15, consumers by definition include us all:

They are the largest economic group in the economy, affecting and affected by almost every public and private economic decision. Two-thirds of all spending in the economy is by consumers. But they are the only important group in the economy who are not effectively organized, whose views are often not heard.

One of the most important consumers' protection proposals is Senator PAUL DOUGLAS' bill, S. 1740, the truth-in-lending bill, which I have joined in sponsoring. Unfortunately the Banking and Currency Committee on which I serve has not reported the bill favorably to the Senate. Senator DOUGLAS has held extensive hearings on this proposal, which has evoked widespread support among consumer groups. I praise the able leadership of my distinguished colleague from Illinois in developing and pressing for action on this legislation.

President Kennedy called specifically for the enactment of truth in lending

legislation in his consumers' message. He declared:

Excessive and untimely use of credit arising out of ignorance of its true cost is harmful both to the stability of the economy and to the welfare of the public. Legislation should therefore be enacted requiring lenders and vendors to disclose to borrowers in advance the actual amounts and rates which they will be paying for credit. Such legislation, similar in this sense to the truth-in-securities laws of 1933-34, would not control prices or charges. But it would require full disclosure to installment buyers and other prospective credit users, and thus permit consumers to make informed decisions before signing on the dotted line. Inasmuch as the specific credit practices which such a bill would be designed to correct are closely related to and often combined with other types of misleading trade practices which the Federal Trade Commission is already regulating, I recommend that enforcement of the new authority be assigned to the Commission. The Government agencies most concerned in this area have been cooperating with the subcommittee in developing the information necessary to prepare a workable and effective bill; and in view of the exhaustive hearings already held, I hope that the Congress can complete action on this important matter before it adjourns.

An excellent article on the consumer credit problem and on the need for truth in lending appears in the September issue of Frontier magazine. The article, "A Complicated Maze Puzzles the Consumer," was written by David Hamilton, professor of economics at the University of New Mexico.

As Professor Hamilton concludes his article:

The present confusion in the consumer credit market leaves the customer hunting for the pea under the shell. A free market in credit cannot exist when one party to the transaction doesn't know the full sale price.

Mr. President, I ask unanimous consent that Professor Hamilton's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A COMPLICATED MAZE PUZZLES THE CONSUMER

(By David Hamilton)

Senator PAUL DOUGLAS, whose Senate bill, S. 1740, would have required that interest rates on consumer credit be stated as a true annual rate, is having trouble injecting a bit of truth into the moneylending business.

A basic notion of any free market is that the buyer or consumer is properly informed. This notion was stated as a consumer right by President Kennedy in his March message to Congress which dealt with the consumer interest. The President stated that the consumer has a "right to be informed—to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts he needs to make an informed choice."

The conditions which exist in the market for credit depart a long way from this expressed ideal. Even an astute consumer has difficulty securing "the facts he needs to make an informed choice" in the credit market. The buyer is confronted by innumerable methods of quoting credit charges; some make it impossible to compare alternative credit sources and some completely obscure the credit charge.

Consumer credit is big business. The June issue of the Federal Reserve Bulletin indicates that in April 1962 consumers owed creditors $56.65 billion. Of this, $43.285 billion was installment credit; the remainder was noninstallment, short-term credit. (The Federal Reserve figures, however, do not include mortgage debt and thus underrepresent the total amount of debt which consumers owe by about $150 billion. The total consumer debt is closer to $200 billion.)

Rates on mortgage debt are usually clearly stated as a true annual rate. It is in nonmortgage debt that confusion reigns. Even though this type composes only about one-fourth of total consumer debt, it is sufficiently large to place a heavy burden on the consumer. The average cost, to the consumer, of this credit is as high as 15 percent; consumers are paying approximately $8.25 billion per year in carrying charges. (This is not much less than the annual cost of servicing the national debt.)

Nonmortgage consumer debt has grown rapidly in the last 10 years. In 1952, consumer credit of all types, exclusive of mortgage credit, amounted to $27.52 billion. In 10 years, the amount of outstanding debt just about doubled. There are several reasons for this mushroomed use of credit. An elaborating technology has made the modern home a small factory of machines driven by the electric motor. Just to set up housekeeping forces the average consumer into considerable debt. In addition, cities, a large part of which have been built since the automobile, are so planned that an automobile is now a necessity. Very few consumers, however, are able to muster enough cash in advance to pay for the "modern conveniences."

But the growth of consumer credit, especially in the past 10 years, is also a product of the ease in which credit may be obtained. The ingeniousness of the credit huckster seems to be unlimited. Within 10 years the credit card has become a part of the American middle-class way of life and revolving credit reaches almost every level of the status structure. Banks are extending check credit which is a form of generalized revolving credit. Revolving credit is simply a scheme whereby a consumer may maintain a permanent amount of debt on which he meets the interest charges. Theoretically, the principal is reduced by some fixed fraction, usually one-twelfth, each month. But since at any time the consumer also can add to the debt up to the ceiling amount, it is possible to remain permanently in hock.

VARYING TYPES OF CREDIT ARE AVAILABLE

The consumer is faced by William James' "blooming, buzzing confusion" in the credit market. To the different types of credit offered may be added the different sources of credit. The small loan company is augmented by the commercial bank, the credit union, the sales finance company, and the merchandizer who has now entered this lucrative business. All of them have their own ways of computing credit charges and compounding the confusion.

Sometimes credit charges are stated as the true annual rate. This simply means that a consumer who borrows $120 for 1 year at 6 percent will owe the principal, $120, plus $7.20 interest at the end of 1 year. To most consumers this is quite clear, simple, and conventional, but this type of credit lending is today the exception rather than the rule.

Most credit now provides for installment payment of the principal. When such provision is made a 6 percent rate may turn out to be closer to 12 percent on a true annual basis. If, for example, the consumer borrows $120 with the provision that he repay $10 of the principal each month, the principal sum which he possesses declines $10 monthly. The first month he has $120, the second $110, and the third $100 and so on to the last month when he has only $10. The average amount he borrowed is found by adding the declining balance each month and dividing by the number of months: In this case he had an average amount of $65. If his interest is figured as 6 percent of $120 or $7.20, as it most certainly will, his true annual rate will be approximately 11.1 percent.

However, sometimes credit charges are stated as a certain percentage per month on the unpaid balance. When this is the case the true annual rate is determined by multiplying the monthly percentage charge by 12. Thus, a 1 percent per month charge is, in fact, a true annual rate of 12 percent. A rate of 1.5 percent per month is 18 percent true annual rate and a rate of 2 percent per month is 24 percent true annual rate.

The relatively few consumers who may be able to rapidly convert such methods of interest charging to true annual rates are sometimes thwarted by the simple device of stating the cash price plus a dollar amount for interest. No interest rate is shown. In still other cases the consumer is merely told the amount of his monthly payment which includes both interest and an amount for principal retirement.

MANY DIFFICULTIES FACE THE BORROWER

With these varied ways of stating credit charge, it is increasingly difficult for the consumer to do comparative shopping for credit even when it is worth while to do so. The usual rates of credit sources vary significantly. Credit unions usually lend at rates which range between 8 and 12 percent, banks from about 8 to 18 percent, small loan companies, depending on the State, from 18 to 42 percent, and installment purchase credit lenders from about 12 to 24 percent.

A consumer purchasing a $300 refrigerator on time would find quite a variation in the total cost depending upon the source of credit. By paying for the refrigerator in 1 year, the total cost would be from $324 to $336 if he financed through a credit union, from $324 to $354 if through a bank, from $330 to $372 if by installment purchase credit, and from $354 to $426 if through a small loan agency.

Unless the consumer can convert credit charges to a uniform rate he cannot compare alternative costs of credit. Senator DOUGLAS' bill would require only that credit costs be stated as a true annual rate so that consumers could more easily compare actual credit rates. His bill would not regulate credit charges. The truth-in-lending bill offers the consumer protection analogous to the Securities Act of 1933, which required that the truth concerning new security issues be made available to potential security purchasers.

So far the career of his bill, a veteran of two Congresses, has demonstrated that it is the consumer who is least represented in Congress. Few bills have such massed opposition. Organizations as diverse as the American Bar Association ("Our study, in fact, indicates that a better argument can be made against the constitutionality of this bill than for it."); National Small Businessmen's Association ("Passage of this bill would mean an end to revolving credit and place all credit selling in jeopardy."); Montgomery Ward ("The bill is unworkable."); the National Association of Manufacturers ("We believe this proposal will have a 'boomerang effect,' creating more confusion and deception than it stops."); the National Retail Merchants Association; the National Automobile Dealers' Association ("The bill is unnecessary.") oppose it.

The arguments of its opponents are the usual sophistries heard in committee hearings on consumer legislation. It will not work—but if it will work it would have ill effects on the consumer, the economy, the business climate, and free enterprise.

One thing is clear. The present confusion in the consumer credit market leaves the customer hunting for the pea under the

shell. A free market in credit cannot exist when one party to the transaction doesn't know the full sale price.

Major U.S. Economic Goals

EXTENSION OF REMARKS
OF
HON. ALEXANDER WILEY
OF WISCONSIN
IN THE SENATE OF THE UNITED STATES

Wednesday, September 5, 1962

Mr. WILEY. Mr. President, as a nation in a world of great need and greater challenge we are dependent upon our free enterprise system to provide us with the goods, materials, and equipment to meet the needs of a fast-expanding population and promote progress, to create the jobs for U.S. workers, and to support a mighty defense.

In a weekend broadcast over Wisconsin radio stations, I was privileged to review major challenges confronting our free enterprise system. I ask unanimous consent to have the text of this address printed in the RECORD.

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

MAJOR U.S. ECONOMIC GOALS

As a nation—in a world of great need and greater challenge—we are dependent upon our free enterprise system to provide us with the goods, materials and equipment to meet the needs of a fast-expanding population and promote progress; to create the jobs for U.S. workers; and to support a mighty defense.

THE NATIONAL ECONOMIC PICTURE

Nationally, the economic picture reflects gigantic—almost incomprehensible—progress. Currently, the value of goods and services amounts to about $552 billion annually.

Despite such progress, we recognize that there are still serious problems in our system. The challenges include the following: Improving economic opportunities for success in small business—with a casualty rate of over 17,000 annually; improving the agricultural economy; creating jobs for the 4 million—including 60,000 in Wisconsin—still regrettably unemployed; and maintaining a good rate of progress to meet the needs of our people—and to further outstrip the Communist system—challenging us on the economic front.

In evaluating the national economic picture, we must always remember that free enterprise—not the Government, despite a $93 billion Federal budget—creates the "giant's share" of U.S. jobs and goods and services.

In reality, Government spending is not a measuring stick of progress. To the extent that it involves participation in normally nongovernmental economic-human welfare programs, rather, this represents a failure of our system to fulfill needs of the people and the country.

To help promote greater progress, then, we should shoot for the following goals:

1. Reestablishing confidence of the people in our economy. Lack of such confidence results in restrictive buying, overcautious investing, limited business and industries expansion by job creating enterprises; and other economic "holdbacks."

2. Economically, also, Uncle Sam needs to adopt a more realistic policy based upon a philosophy of "pay as you go"—not "go in debt as you go."

3. The Nation also needs a reform of its tax system. With skyrocketing costs of Government—particularly for defense—there is a special need for fair and equitable treatment of the taxpayer.

Generally, patriotic citizens are ready and willing to pay taxes; however, they are not willing, and should not be required, to pay for reckless spending; mishandling of funds; unfavorable tax treatment of themselves, or too favorable tax treatment of others; or other inequitable practices that foist an unfair share of the tax burden on any individual, business or other segment of the economy.

For the future we need also to accomplish the following:

1. Better educating our citizens—adult and in school—of the significance, and working principles of our economic system.

2. Encouraging more people, not only to understand and appreciate, but also confidently invest in enterprise, small and large, serving as a hub of economic life for a community.

3. Encouraging community support of community development programs, such as the establishment of corporations to provide financing for necessary projects.

4. Cooperative efforts to foster new enterprises under the area redevelopment program, now beginning to get underway in Wisconsin and elsewhere.

5. By reawakening our citizens' enterprising spirit full of faith and confidence, to improve the economic status of existing, and creating new, enterprises for a strong, free economy.

For security and for progress and peace we need, then, to maintain a sound, strong and vigorous economy.

HOUSE OF REPRESENTATIVES

THURSDAY, SEPTEMBER 6, 1962

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

I Thessalonians 4: 9: *But as touching brotherly love, ye yourselves are taught of God to love one another.*

Almighty God, whose all-encircling love and providence are boundless, inspire us always to think and act in terms of the common good of humanity.

We earnestly beseech Thee to expand and enlarge our minds and hearts with a greater concern for the health and happiness of all mankind.

Grant that our groping souls may look and move forward to the dawning of that blessed day when man's aspiration and ambition shall be free from all provincial narrowness and sectarian antipathies.

May we be emancipated from everything that mars and limits the spirit of friendship and fraternity among the members of the human family.

Hear us in His name who taught us that the principle of our religion must be the fatherhood of God and our practice the brotherhood of man. Amen.

THE JOURNAL

The Journal of the proceedings of Tuesday, September 4, 1962, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Ratchford, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On August 28, 1962:

H.R. 3728. An act to amend chapter 11 of title 38, United States Code, to authorize special consideration for certain disabled veterans suffering blindness or bilateral kidney involvement; and

H.R. 8564. An act to amend the Federal Employees' Group Life Insurance Act of 1954 to provide for escheat of amounts of insurance to the insurance fund under such act in the absence of any claim for payment, and for other purposes.

On August 29, 1962:

H.R. 11523. An act to authorize the employment without compensation from the Government of readers for blind Government employees, and for other purposes.

On August 30, 1962:

H.R. 11721. An act to authorize the payment of the balance of awards for war damage compensation made by the Philippine War Damage Commission under the terms of the Philippine Rehabilitation Act of April 30, 1946, and to authorize the appropriation of $73 million for that purpose.

On August 31, 1962:

H.R. 8730. An act for the relief of Sister Mary Alphonsa (Elena Bruno) and Sister Mary Attilia (Filipa Todaro);

H.R. 9915. An act for the relief of Umberto Brezza;

H.R. 10651. An act to amend title 28, United States Code, with respect to fees of U.S. marshals, and for other purposes;

H.R. 11040. An act to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes; and

H.J. Res. 864. Joint resolution making continuing appropriations for the fiscal year 1963, and for other purposes.

On September 5, 1962:

H.R. 2446. An act to provide that hydraulic brake fluid sold or shipped in commerce for use in motor vehicles shall meet certain specifications prescribed by the Secretary of Commerce;

H.R. 3801. An act to authorize the Secretary of the Army and the Secretary of Agriculture to make joint investigations and surveys of watershed areas for flood prevention or the conservation, development, utilization, and disposal of water, and for flood control and allied purposes, and to prepare joint reports on such investigations and surveys for submission to the Congress, and for other purposes;

H.R. 6984. An act to provide for a method of payment of indirect costs of research and development contracted by the Federal Government at universities, colleges, and other educational institutions;

H.R. 7736. An act to amend the act of May 13, 1960 (Private Law 86-286);

H.R. 10263. An act to authorize the Secretary of the Air Force to adjust the legislative jurisdiction exercised by the United States over lands within Eglin Air Force Base, Fla.;

H.R. 10825. An act to repeal the act of August 4, 1959 (73 Stat. 280);

H.R. 11251. An act to authorize the Secretary of the Army to relinquish to the State of New Jersey jurisdiction over any lands