The Clerk read as follows:

To the Senate and House of Representatives:

The shocking intelligence has been received that the President of the French Republic met his death yesterday at the hands of an assassin. This terrible event which has overtaken a sister republic can not fail to deeply arouse the sympathies of the American nation, while the violent termination of a career promising so much in aid of liberty and advancing civilization should be mourned as an affliction to mankind.

GROVER CLEVELAND.

EXECUTIVE MANSION, *June 25, 1894.*

Mr. McCREARY of Kentucky. Mr. Speaker, the civilized world is shocked and sorrow-stricken by the announcement of the assassination of the President of the French Republic. He was in many respects an ideal President, and was loved and respected in his own country and regarded with confidence and admiration in other countries. His death is a serious calamity for France and for Europe, and all over our country the people are filled with sympathy and sorrow.

France is one of the great republics of the world. The relations of our country with that country are peaceful and cordial, and we should show in a marked and conspicuous manner our sorrow for the sad affliction which has fallen upon our sister republic. I therefore ask that the resolution which I now offer be adopted.

The resolution was read, as follows:

Resolved, That the House of Representatives of the United States of America has heard with profound sorrow of the assassination of President Carnot, and tenders the people of France sincere sympathy in their national bereavement.

That the President of the United States be requested to communicate this expression of sorrow to the government of the Republic of France and to Madame Cornot; and that, as a further mark of respect to the memory of the President of the French Republic, the House of Representatives do now adjourn.

Mr. HITT. Mr. Speaker, all the people of the United States to-day share in the grief and horror of the French nation at the great calamity which has fallen upon them, and this House but expresses the universal feeling of the American people in the resolution that is proposed. It is a calamity not alone to the French people that President Carnot has been stricken down, for nations are so interdependent in this time in which we live that it is a blow felt by every lover of liberty and order in the world.

President Carnot, at the present time of critical questions pending in Europe, was a man whose personality was of grave and great importance aside from and above his political position. He was chosen in 1887, at a time when there were other and far more brilliant names presented for the Presidency—Mr. Brisson, Mr. Floquet, M. De Freycinet, and Jules Ferry—names that were known far more widely than his, but the reputation he had earned in the Chamber of Deputies (a body which exactly corresponds to the House of Representatives of the United States), by his temperate, moderate, sensible, and laborious course through years of patriotic service, had built up for him a strong name and won the confidence of all, so that he was chosen President; and it was a most hopeful sign, in this our day, that a nation believed to be the one most easily charmed with and led aside by brilliant qualities should have, in a moment of grave trial, selected as chief ruler a man who was the very embodiment of saving common sense.

He was about to be reëlected President of the republic; and at this time, when social disorder is threatened in so many places, when the interests of great nations are liable to come in conflict and plunge the world into tumult and strife, we can feel not merely personal grief and anxiety for the wanton murder of a good man fallen by the red hand of crime, but a wider sorrow for the loss of a wise statesman in such high responsible position that the whole of mankind suffered a blow when he fell.

I join with my colleague [Mr. McCREARY of Kentucky] in the expression of the sympathy which I believe every individual in this House and in the nation shares with the French people.

The SPEAKER. The question is upon agreeing to the resolution.

The resolution was unanimously adopted; and, in accordance therewith (at 12 o'clock and 10 minutes p. m.), the House adjourned.

REPORTS OF COMMITTEES ON PRIVATE BILLS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

By Mr. HUTCHESON, from the Committee on Claims: A bill (S. 345) for the relief of Horace A. W. Tabor. (Report No. 1154.)

By Mr. KIEFER, from the Committee on Claims: A bill (H. R. 4574) for the relief of Thomas H. Presswell. (Report No. 1155.)

PUBLIC BILLS.

Under clause 3 of Rule XXII, bills of the following titles were introduced and severally referred, as follows:

By Mr. WILLIAM A. STONE: A bill (H. R. 7564) defining the term "anarchist" and fixing and providing penalties for crimes attempted by anarchists—to the Committee on the Judiciary.

By Mr. BRICKNER: A bill (H. R. 7565) to further regulate commerce—to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, a private bill of the following title was presented and referred, as follows:

By Mr. STRONG: A bill (H. R. 7566) to correct the military record of John Boon, late of Company C, Eighty-second Ohio Volunteer Infantry—to the Committee on Military Affairs.

PETITIONS, ETC.

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

By Mr. BRICKNER: Two petitions from citizens of Sheboygan and one from Milwaukee, Wis., against any increase of the tax on whisky and against any extension of the bonded period—to the Committee on Ways and Means.

By Mr. GEISSENHAINER: Petition of citizens of Freehold, N. J., in favor of exempting fraternal beneficiary societies, orders, or associations from the income tax—to the Committee on Ways and Means.

By Mr. GRAHAM: Petition of 18 citizens of Brooklyn, N. Y., against the taxation of beneficiary and fraternal societies—to the Committee on Ways and Means.

By Mr. HAINER of Nebraska: Memorial of Hon. James A. Canfield and others, chancellor and faculty of Nebraska State University, praying for more efficient legislation against lotteries—to the Committee on the Judiciary.

By Mr. HITT: Memorial and resolutions of Illinois Building Association League, adopted at Galesburg, Ill., representing 200,000 shareholders, to amend income-tax bill so as to exempt building and loan associations—to the Committee on Ways and Means.

By Mr. KIEFER: Petition of Charles Wolf, John Leipke, Andrew G. Johnson, J. W. Murphy, R. H. Downing, James Bittner, J. A. Frees, G. Anderson, M. L. McIntire, Charles Hoffman, C. B. Wilcox, D. D., William V. McKinley, Silas J. Knittel, Lewis I. Wood, Henry J. Hansen, J. V. M. Davis, Phillip Gilbert, F. R. McManigal, Henry C. Capser, W. R. Hawthorne, Henry L. Gray, P. H. Kidd, W. Stegnet, R. M. Miller, C. L. Coleman, P. D. Codfrey, Christ. Lindhl, William Sundberg, T. F. Ramberg, A. Anderson, Charles H. Boostrom, Charles A. Malenberg, A. P. J. Colberg, John L. Johnson, and also a resolution of Washington Camp No. 4, Patriotic Order Sons of America, and many others, all of Minnesota, against appropriation for Indian sectarian schools—to the Committee on Indian Affairs.

By Mr. McCALL: Resolutions of the General Court of Massachusetts concerning the extermination of the gypsy moth—to the Committee on Agriculture.

Also, resolutions of the General Court of Massachusetts relative to the appointment and removal of veterans in the national civil service—to the Committee on Civil Service Reform.

Also, resolutions of the General Court of Massachusetts relative to national legislation against the lottery traffic—to the Committee on the Post-Office and Post-Roads.

By Mr. RITCHIE: Petition of Toledo (Ohio) Council, No. 21, Royal Arcanum, favoring exemption of fraternal beneficiary societies from the operation of the income-tax law—to the Committee on Ways and Means.

SENATE.

TUESDAY, *June 26, 1894.*

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of February 27, 1894, directing the proper accounting officers of the Treasury to reëxamine Treasury settlement No. 5441 of January 22, 1885, a report of the Second Comptroller in the matter; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the Senate of the 20th instant, the original report of Maj. Clifton Comly, Ordnance Department, United States Army, dated February 17, 1894, "On the operations of the division of military engineering of the international congress of engineers, held in Chicago last August under the auspices of the World's Congress Auxiliary of the Columbian Exposition," together with the papers referred to in the report and list of contents of the same; which, on motion of Mr. MANDERSON, was, with the accompanying papers, referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. MCMILLAN presented a memorial of the Pharmaceutical Society, of Detroit, Mich., remonstrating rgainst an increase of the internal revenue tax on alcohol; which was ordered to lie on the table.

He also presented a petition of the Michigan State Assembly, Knights of Labor, praying for the passage of the so-called Gresham bill, in regard to claims arising under the eight-hour law; which was referred to the Committee on Education and Labor.

He also presented the petition of Dan J. Wilson and sundry other citizens of Jackson, Mich., praying that fraternal beneficiary societies, orders, or associations be exempted from the proposed income tax provision of the pending tariff bill; which was ordered to lie on the table.

He also presented the memorial of J. S. Meier and sundry other citizens of Flint, Mich., remonstrating against an increase of the duty on wrapper tobacco beyond that provided for in the so-called Wilson tariff bill; which was ordered to lie on the table.

He also presented the petition of J. L. Allen and sundry other citizens of Kalamazoo, Mich., and the petition of David Inglis and sundry other citizens of Wayne County, Mich., praying that the funds of mutual life insurance companies and associations be exempted from the proposed income tax of the pending tariff bill; which were orde red to lie on the table.

Mr. MARTIN presented the petition of J. T. Moore, A. A. McGrew, H. B. Sparks, and sundry other citizens of Crawford County, Kans., praying that the funds of mutual life insurance companies and associations be exempted from the proposed income tax provision of the pending tariff bill; which was ordered to lie on the table.

Mr. DAVIS presented memorials of W. E. West and 158 other citizens of Jasper; of F. Reese and 148 other citizens of Lake Crystal, and of Washington Camp No. 4, Patriotic Order Sons of America, and 743 citizens of St. Paul, all in the State of Minnesota, remonstrating against the appropriation of public moneys for the maintenance of sectarian Indian schools; which were referred to the Committee on Appropriations.

He also presented petitions of J. W. Watross and 90 other citizens of St. Paul; of C. K. P. Crockett and sundry other citizens of Winona, and of J. F. Dean and 50 other citizens of St. Paul, all in the State of Minnesota, praying that fraternal beneficiary societies, orders, or associations be exempted from the proposed income tax provision of the pending tariff bill; which were ordered to lie on the table.

He also presented the petition of H. M. Hodgman and W. H. Yardley, of St. Paul, Minn., praying that the funds of mutual life insurance companies and associations be exempted from the proposed income-tax provision of the pending tariff bill; which was ordered to lie on the table.

Mr. MORRILL presented a petition of sundry citizens of Caledonia County, Vt., praying that the funds of mutual life insurance companies and associations be exempted from the proposed income-tax provision of the pending tariff bill; which was ordered to lie on the table.

Mr. MANDERSON presented a petition of 38 citizens of Weeping Water, Nebr., praying that fraternal beneficiary societies, orders, or associations be exempted from the proposed income-tax provision of the pending tariff bill; which was ordered to lie on the table.

Mr. BLANCHARD presented a concurrent resolution of the Legislature of the State of Louisiana, praying for the passage of a bill now pending before the Congress of the United States, providing for a permanent exhibit at the Cotton States and International Exposition, to be held at Atlanta, Ga., in 1895; which was referred to the Committee on Appropriations, and ordered to be printed in the RECORD, as follows:

Concurrent resolution requesting Senators and Members of Congress to vote for and aid in the passage of a bill now pending before the Congress of the United States, providing for a Government exhibit at the Cotton States and International Exposition to be held at Atlanta, Ga., in 1895.

Whereas the Cotton States and International Expositon to be held in Atlanta, Ga., during September, October, November, and December, 1895, is to be in no sense local, but is for the purpose of bringing about closer commercial relations between this country and Mexico, Central, and South America, and the West Indies, which would result in largely increasing the trade between the United States and the said countries; and

Whereas the holding of such an exposition will do great good to the entire country, and especially to the Southern States and the State of Louisiana, and such a movement should be encouraged by all persons; and

Whereas a bill has been introduced in the Congress of the United States providing for a Government exhibit at said exposition: Therefore

Be it resolved by the senate (the house concurring), That said exposition is strongly indorsed, and the objects sought to be accomplished are worthy the active and earnest support of every Southern State.

Be it further resolved, That the Senators and Representatives in Congress from this State are urgently requested to vote for and aid in every possible way to secure the passage of the said bill in Congress providing for said Government exhibit at said exposition.

Be it further resolved, That a copy of this preamble and of these resolutions be duly certified and forwarded to our Senators and Representatives in Congress.

G. W. BOLTON,
Speaker of the House of Representatives.
H. R. LOTT,
President pro tempore of the Senate.

Approved June 22, 1894.

MURPHY J. FOSTER,
Governor of the State of Louisiana.

A true copy:
[SEAL.]
T. S. ADAM, *Secretary of State.*

Mr. PROCTOR presented the petition of H. R. Conger and sundry other citizens of Burlington, Vt., praying that the funds of mutual life insurance companies and associations be exempted from the proposed income tax provision of the pending tariff bill; which was ordered to lie on the table.

Mr. HANSBROUGH presented a petition of sundry citizens of Walsh County, N. Dak., praying that the funds of mutual life insurance companies and associations be exempted from the proposed income tax provision of the pending tariff bill; which was ordered to lie on the table.

Mr. PETTIGREW presented sundry petitions of citizens of Hughes County, S. Dak., praying for the enactment of legislation to provide for a substantial protective tariff rate on wool; which were ordered to lie on the table.

Mr. HOAR. I present sundry resolutions adopted by the senate and house of representatives of the State of Massachusetts, copies of which have been furnished to the Chair. I ask that the resolutions may be printed in the RECORD, and referred to the appropriate committee.

The VICE-PRESIDENT. The Chair will state that he has copies of the resolutions before him and intended to lay them before the Senate.

Mr. HOAR presented the following resolutions of the Legislature of Massachusetts; which were referred to the Committee on Civil Service and Retrenchment, and ordered to be printed in the RECORD:

COMMONWEALTH OF MASSACHUSETTS, *in the year 1894.*

Resolutions relative to the appointment and removal of veterans in the national civil service.

Whereas a bill is now pending before Congress "to insure preference in appointment, employment, and retention in the public service of the United States to veterans of the late war;"

Resolved, That the senate and house of representatives of the Commonwealth of Massachusetts, in General Court assembled, believe it is expedient that Union veterans should be preferred to other applicants for positions in the national public service where they present equal qualifications for the discharge of their duties; and that they should be protected from removal for causes disconnected with their efficiency and faithfulness in the performance of such duties.

Resolved, That copies of these resolutions be transmitted to the Senators and Representatives from this Commonwealth in the Congress of the United States.

HOUSE OF REPRESENTATIVES, *June 5, 1894.*

Adopted. Sent up for concurrence.

EDWARD A. MCLAUGHLIN, *Clerk.*

SENATE, *June 8, 1894.*

Adopted, in concurrence.

HENRY D. COOLIDGE, *Clerk.*

A true copy. Attest:

EDWARD A. MCLAUGHLIN,
Clerk of the House of Representatives.

Mr. HOAR presented the following resolutions of the Legislature of Massachusetts; which were ordered to lie on the table, and to be printed in the RECORD:

COMMONWEALTH OF MASSACHUSETTS, *in the year 1894.*

Resolutions relative to national legislation for the suppression of the lottery traffic.

Whereas the lottery until recently established in the State of Louisiana has been transferred to the Republic of Honduras, where its managers propose to continue its business and to export tickets and circulars to the United States;

Resolved, That the senate and house of representatives of Massachusetts, in General Court assembled, respectfully urge upon Congress the enactment of legislation which will prevent so far as possible the introduction of lottery matter into the United States from foreign countries, and its transportation from State to State.

Resolved, That copies of these resolutions be sent to the presiding officers of both branches of Congress, and also to the Senators and Representatives in Congress from this Commonwealth.

HOUSE OF REPRESENTATIVES, *May 17, 1894.*

Adopted. Sent up for concurrence.

EDWARD A. MCLAUGHLIN, *Clerk*

SENATE, *May 21, 1894.*

Adopted, in concurrence,

HENRY D. COOLIDGE, *Clerk.*

A true copy. Attest:

EDWARD A. McLAUGHLIN,
Clerk of the House of Representatives.

Mr. HOAR presented the following resolution of the Legislature of Massachusetts; which was referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD:

COMMONWEALTH OF MASSACHUSETTS *in the year 1894.*

Resolution concerning the extermination of the gypsy moth.

Whereas the *Ocneria dispar*, or gypsy moth, an insect pest, has found a lodgment in this Commonwealth, and careful and persistent work is necessary to prevent its spread over other territory of the United States, and this Commonwealth has appropriated and expended under the direction of the State Board of Agriculture large sums in the work of exterminating said pest; and said board believes that the sum of $100,000 appropriated for the year ending on the 1st day of March, in the year 1894, is insufficient to complete the extermination of said pest;

Resolved, That the senate and house of representatives of the Commonwealth of Massachusetts, in General Court assembled, request the Senators and Representatives from this Commonwealth in the Congress of the United States to urge upon Congress the necessity of prompt and vigorous action to exterminate said pest, and to use their influence to secure from Congress an appropriation of $100,000 to assist this Commonwealth in defraying the necessary expenses of the work.

HOUSE OF REPRESENTATIVES, *May 17, 1894.*

Adopted. Sent up for concurrence.

EDWARD A. McLAUGHLIN, *Clerk.*

SENATE, *May 21, 1894.*

Adopted, in concurrence.

HENRY D. COOLIDGE, *Clerk.*

A true copy. Attest:

EDWARD A. McLAUGHLIN,
Clerk of the House of Representatives.

The VICE-PRESIDENT presented a petition of the Legislature of the State of Massachusetts, praying for the enactment of legislation to suppress the lottery traffic; which was ordered to lie on the table.

He also presented a petition of the Legislature of the State of Massachusetts praying that an appropriation of $100,000 be made for the extermination of the gypsy moth; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Legislature of the State of Massachusetts, praying that preference in appointment, employment, and retention in the public service of the United States be given to veterans of the late war; which was referred to the Committee on Civil Service and Retrenchment.

REPORTS OF COMMITTEES.

Mr. HAWLEY, from the Committee on Military Affairs, to whom was referred the bill (S. 2070) to provide for the restoration to the State of Michigan two flags carried by the Twenty-second Michigan Infantry Volunteers and now in the War Department, reported it without amendment, and submitted a report thereon.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the amendment submitted by Mr. MORGAN on the 14th instant, intended to be proposed to the District of Columbia appropriation bill, reported favorably thereon, and moved that it be printed, and, with the accompanying papers, referred to the Committee on Appropriations; which was agreed to.

Mr. WALSH, from the Committee on the Quadro-Centennial, to whom was referred the amendment submitted by Mr. VILAS on the 11th instant, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

LOUIS A. YORKE.

Mr. HALE. I am directed by the Committee on Naval Affairs, to whom was referred the bill (S. 1438) for the relief of Louis A. Yorke, to report it favorably, and I ask that it be acted upon. A similar bill has heretofore passed the Senate, and I desire to get it to the House of Representatives.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill; which was read, as follows:

Be it enacted, etc., That the action of the board by which Passed Assistant Paymaster Louis A. Yorke was examined for promotion be set aside and declared null and void: and the President is hereby authorized to appoint him to the office to which he would have been promoted but for said action, and to retire him in that grade as of the date he was wholly retired, charging him with all extra pay and allowances paid him at that time: *Provided*, That he shall not receive or be entitled to any pay, compensation, or allowance whatever prior to appointment under this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILL INTRODUCED.

Mr. TELLER introduced a bill (S. 2161) to increase the pension of Graham McClossen; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. PERKINS submitted an amendment intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. HUNTON submitted an amendment intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. PEFFER submitted an amendment intended to be proposed by him to the deficiency appropriation bill; which was referred to the Committee on Printing, and ordered to be printed.

COLUMBIA RIVER QUARANTINE HOSPITAL.

Mr. DOLPH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to transmit to the Senate copies of all correspondence and reports in the Department, and all information he may possess concerning the importance of and urgency for the establishment of a quarantine hospital at or near the mouth of the Columbia River, and to inform the Senate whether any Congressional action is necessary concerning the same.

PERSONS ENGAGED IN PROTECTED INDUSTRIES.

Mr. ALLEN. I ask unanimous consent to call up Order of Business 448 on the Calendar.

The VICE-PRESIDENT. The business will be stated.

The SECRETARY. A resolution directing the Secretary of the Treasury to inform the Senate of the total number of persons engaged in protected industries in the United States whose wages are, or may be claimed to be, affected by tariff legislation.

Mr. GALLINGER. I should like to hear the resolution read for information.

The VICE-PRESIDENT. The resolution will be read.

The Secretary read the resolution submitted by Mr. ALLEN May 15, 1894, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate of the total number of persons engaged in protected industries in the United States whose wages are, or may be claimed to be, affected by tariff legislation; the total number of persons engaged in such industries whose wages are not or will not be affected by tariff legislation, and the proportion of the population of the United States who depend upon the foreign market for the sale of their products, classifying such industries respectively; such information to be based on the census of 1890. Also, that the Secretary of the Treasury be, and he is hereby, directed and required to inform the Senate of the total number of such persons who are native-born citizens of the United States of America, the total number who are naturalized citizens, and the total number of such persons who are aliens; and at what ratio, if any, alien mechanics and laborers have been taking the place of native and naturalized citizens of the United States in the protected industries of the United States.

Mr. GALLINGER. I do not know that I object to the consideration of the resolution, but it seems to me that it asks for information which it would be absolutely impossible for any officer of the Government to furnish. As was suggested by some Senator on a former occasion when the resolution was before the Senate, if anyone is to supply the information it ought to be the Superintendent of the Census rather than the Secretary of the Treasury.

As I said a moment ago, I do not know that I object to the consideration of the resolution, but my present inclination is to move to refer it to the Committee on Finance. If the resolution is considered I give notice that I shall make that motion.

Mr. ALLEN. I ask that the resolution be considered. I do not understand the Senator from New Hampshire to object to its consideration.

The Senate, by unanimous consent, resumed the consideration of the resolution.

The VICE-PRESIDENT. The Chair is advised that there is a motion pending to refer the resolution to the Committee on Finance.

Mr. ALLEN. I hope Senators on the other side of the Chamber will permit the resolution to go through. I understand the information to be in the Treasury Department. If it is not there, the resolution does no harm. If it is there, it strikes me that the Senate and the country ought to know it. This is the fourth or fifth time that I have undertaken to get consideration of the resolution. I am not pressing it for any partisan purpose; I am pressing it for the desired information. I trust the Senator from New Hampshire will not undertake to bury the resolution in a committee, and by that means stifle the inquiry.

Mr. GALLINGER. I will say that I have no disposition to do that. I call the attention of the Senator from Nebraska to the fact that he proposes to ask for information to how many

people will be affected by tariff legislation. I also call his attention to the significant fact that we have not yet passed the tariff bill. In the nature of things we do not know what the tariff legislation will be. I hope it will be very different from the kind the Senator from Nebraska will probably vote for.

I did not know that there was a motion pending to refer the resolution to the Committee on Finance. I should have made such a motion myself if it had not been pending. I hope the resolution will be referred to that committee for consideration and report.

Mr. ALLEN. Information of this kind was furnished by the Secretary of the Treasury in 1886, and it is information that I look upon as very valuable. There is a precedent for a resolution of this kind, and I can not see why Senators should object to its consideration at this time and not permit it to go through.

Mr. MORRILL. The resolution really requires amendment. I made the motion on a former occasion to refer it to the Committee on Finance with no purpose of burying the resolution in the Committee on Finance, but it really deserves to be amended. For instance, take the question where one man in a family of five is employed in a manufactory that has received protection; should he and his family be included, or only one? There are a great many other points in the resolution. Anyone who will examine it will see that it would be certainly proper to have it amended.

Take some villages that are supported by and dependent entirely upon a manufacture of some article of commerce, the question arises, how many are there affected by it? Then the question arises, what will you call protected manufactures? Are they agricultural products or manufactured products, and what products are receiving protection?

Certainly the resolution should be amended by the Committee on Finance, where both parties are represented. The Senator from Nebraska has drawn the resolution so that it suits him, of course, but I do not think it will be regarded as a fair proposition by anyone on either side of the question of protection or nonprotection. The resolution surely ought to be considered and amended by the proper committee.

Mr. ALLEN. I could not hear what the Senator from Vermont said. I do not know what he did say, and therefore I do not know whether his remarks call for reply from me. But I do want to say to Senators on the other side that this is the fourth time, I think, I have undertaken to call up the resolution and get some action of the Senate upon it, and each time there has been a dilatory motion of some kind made or an objection interposed. While I have no desire whatever to employ any law of retaliation, I do propose, if this resolution can not go through, that the business which is done here in the morning hour shall be done in its order if I am in the Chamber—that nothing shall be taken up by unanimous consent when I am here.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont [Mr. MORRILL], to refer the pending resolution to the Committee on Finance.

Mr. MORRILL. On that I ask for the yeas and nays; but first, as there appears to be a lack of a quorum, I suggest the absence of a quorum.

The VICE-PRESIDENT. The Secretary will call the roll.

Mr. VEST. I should like to hear the resolution read.

Mr. HARRIS. Let the roll be called first.

The VICE-PRESIDENT. The Chair will state to the Senator from Missouri that the lack of a quorum is suggested. The Secretary will call the roll.

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

Allen,	Faulkner,	Manderson,	Shoup,
Bate,	Frye,	Martin,	Teller,
Berry,	Gallinger,	Mills,	Vest,
Blackburn,	George,	Mitchell, Oregon	Voorhees,
Call,	Hale,	Morrill,	Walsh,
Cockrell,	Harris,	Pasco,	Washburn,
Coke,	Irby,	Patton,	White.
Cullom,	Jones, Ark.	Peffer,	
Davis,	Lindsay,	Perkins,	
Dolph,	McLaurin,	Platt,	

The VICE-PRESIDENT. Thirty-seven Senators have answered to their names. No quorum is present. What is the pleasure of the Senate?

Mr. HARRIS. I move that the Sergeant-at-Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE-PRESIDENT. The Sergeant-at-Arms will execute the order of the Senate.

Mr. BLANCHARD, Mr. PROCTOR, Mr. ALLISON, Mr. PETTIGREW, Mr. HUNTON, and Mr. HILL entered the Chamber and answered to their names.

The VICE-PRESIDENT. Forty-three Senators have answered to their names. A quorum is present.

Mr. HARRIS. I move to dispense with further proceedings under the call.

The VICE-PRESIDENT. Without objection, it is so ordered. The question is on the motion of the Senator from Vermont to refer the resolution to the Committee on Finance. The resolution will be again read.

The Secretary again read the resolution.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont to refer the resolution to the Committee on Finance, on which the yeas and nays are demanded.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. BLANCHARD (when his name was called). I am paired with the Senator from Michigan [Mr. MCMILLAN], with the liberty of voting to make a quorum. For the present I withhold my vote.

Mr. CALL (when his name was called). I am paired with the Senator from Massachusetts [Mr. LODGE], with the privilege of voting to make a quorum. I withhold my vote for the present.

Mr. CULLOM (when his name was called). I have a general pair with the senior Senator from Delaware [Mr. GRAY]. If he were present, I should vote "yea."

Mr. MCLAURIN (when his name was called). I am paired with the junior Senator from Rhode Island [Mr. DIXON]. If he were present, I should vote "nay."

Mr. MITCHELL of Wisconsin (when his name was called). I am paired with the Senator from Wyoming [Mr. CAREY], and therefore withhold my vote.

Mr. MORRILL (when his name was called). I am paired with the senior Senator from New Jersey [Mr. MCPHERSON], and therefore withhold my vote.

Mr. PATTON (when his name was called). I am paired with the junior Senator from Maryland [Mr. GIBSON], and therefore withhold my vote. If he were present I should vote "yea."

Mr. POWER (when his name was called). I am paired with the Senator from Louisiana [Mr. CAFFERY]. If he were here I should vote "yea."

The roll call was concluded.

Mr. MITCHELL of Oregon (after having voted in the affirmative). I inquire if the senior Senator from Wisconsin [Mr. VILAS] has voted?

The VICE-PRESIDENT. He has not voted.

Mr. MITCHELL of Oregon. Then I withdraw my vote, as I am paired with that Senator.

Mr. CALL. I transfer my pair with the Senator from Massachusetts [Mr. LODGE] to the Senator from South Dakota [Mr. KYLE], and vote "nay."

Mr. BLANCHARD. I understand that there is no quorum voting. Under my pair I am entitled to vote to make a quorum, and I vote "nay."

Mr. MITCHELL of Wisconsin. Having reserved the right to vote to make a quorum, I vote "nay."

Mr. MCLAURIN. I understand there is no quorum, and as I reserved the right to vote to make a quorum, I vote "nay."

Mr. CULLOM. If necessary to make a quorum I have the liberty of voting. I vote "yea."

Mr. MITCHELL of Oregon. I have a right to vote to make a quorum. I vote "yea."

The result was announced—yeas 16, nays 27; as follows:

YEAS—16.

Allison,	Gallinger,	Mitchell, Oregon	Sherman,
Cullom,	Hale,	Perkins,	Shoup,
Dolph,	Higgins,	Platt,	Teller,
Frye,	Manderson,	Proctor,	Washburn.

NAYS—27.

Allen,	Coke,	Jarvis,	Pasco,
Bate,	Faulkner,	Jones, Ark.	Peffer,
Berry,	George,	Lindsay,	Pugh,
Blackburn,	Harris,	McLaurin,	Voorhees,
Blanchard,	Hill,	Martin,	Walsh,
Call,	Hunton,	Mills,	White.
Cockrell,	Irby,	Mitchell, Wis.	

NOT VOTING—42.

Aldrich,	Dubois,	McMillan,	Roach,
Brice,	Gibson,	McPherson,	Smith,
Butler,	Gordon,	Morgan,	Squire,
Caffery,	Gorman,	Morrill,	Stewart,
Camden,	Gray,	Murphy,	Turpie,
Cameron,	Hansbrough,	Palmer,	Vest,
Carey,	Hawley,	Patton,	Vilas,
Chandler,	Hoar,	Pettigrew,	Wilson,
Daniel,	Jones, Nev.	Power,	Wolcott.
Davis,	Kyle,	Quay,	
Dixon,	Lodge,	Ransom,	

So the motion to refer was not agreed to.

The VICE-PRESIDENT. The hour of half past 10 o'clock having arrived, the Chair lays before the Senate the unfinished business.

CLAIMS FOR INSURANCE PAID ON VESSELS.

Mr. MITCHELL of Oregon. I am authorized by the Committee on Claims to report a resolution, for which I ask present consideration.

The VICE-PRESIDENT. The Senator from Oregon asks unanimous consent for the present consideration of the resolution reported by him, which will be read for information.

The Secretary read as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to cause the proper accounting officers of the Treasury to reëxamine the Treasury settlements made in 1884 and 1885 and numbered 5000, 5085, 5201, 5300, 5303, 5363, and 5368, heretofore certified to Congress for appropriation in favor of the respective claimants for insurance paid by them on vessels, and to submit the reasons for the certification, together with a detailed statement of the facts upon which each originated; and report the same to Congress in a manner similar to the report submitted by the Secretary of the Treasury, January 31, 1894 (printed in Senate Executive Document No. 98, second session Fifty-third Congress), in regard to certain other Treasury settlements certified to Congress for appropriation at the same time.

Mr. ALLEN. I understand the Senator asks unanimous consent for the present consideration of the resolution?

The VICE-PRESIDENT. That is the request.

Mr. ALLEN. I object.

The VICE-PRESIDENT. Objection being made, the resolution will go over.

Mr. MITCHELL of Oregon. Then I ask that the resolution may be laid before the Senate to-morrow morning.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 23d instant approved and signed the following acts:

An act (S. 210) for the relief of Wetmore & Bro., of St. Louis, Mo.; and

An act (S. 499) to provide for the adjustment and payment of the claim of Thomas Rhys Smith for work done and materials furnished for the breakwater at Bar Harbor, Me.

THE REVENUE BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 4864) to reduce taxation, to provide revenue for the Government, and for other purposes.

The VICE-PRESIDENT. The pending question is on the amendment proposed by the Senator from New York [Mr. HILL], which will be stated.

The SECRETARY. In section 55, line 7, on page 171, after the word "securities," it is proposed to strike out "except such bonds of the United States as are by the law of their issuance exempt from all Federal taxation."

Mr. HILL. I suggest to the Senator from Missouri [Mr. VEST], in charge of this portion of the bill, an amendment on page 171, line 8, after the words "United States," to strike out the word "as," and insert the words "the principal and interest of which;" so as to read, "except such bonds of the United States, the principal and interest of which are by the law of their issuance exempt from all Federal taxation," the object being that the bill, if it shall become a law, will show on its face that both the principal and the interest are exempt from Federal taxation.

Mr. VEST. There is no objection to that.

The amendment was agreed to.

Mr. HILL. I withdraw the amendment which I offered on Saturday last.

The VICE-PRESIDENT. The amendment proposed by the Senator from New York is withdrawn.

Mr. HILL. Mr. President, I desire to say in withdrawing the amendment that one of my objects in offering it was to call the attention of the country to the fact that this exemption, which seems to be a necessary one under the law, at least I am disposed to conceive it to be necessary at this time, takes out from the operation of the act $635,000,000 worth of property represented in Government bonds, the point being that it is claimed that this income-tax provision is designed for the purpose of reaching the wealth of the country and equalizing taxation. It is said that the wealthy men of the country have their money so invested that they can not be reached by other methods or systems of taxation, and that the object of the income-tax provision is to reach that class of people; but as it stands, it is impotent for that purpose, and $365,000,000 are necessarily exempt from its provisions.

I move to amend in the same section by adding, after the word "taxation," in line 9, the words "and except the bonds of any State, county, municipality, or town."

Mr. SHERMAN. I wish to say to the Senator from New York that the bonds issued by the United States in aid of the Pacific railroads are not exempt by the provisions of this bill.

Mr. HILL. I so understand.

Mr. SHERMAN. And therefore I think the amount of those bonds ought to be included. I understand the amount of the bonds of the Pacific railroads is included in this six hundred and some odd millions.

Mr. HILL. No, sir; they are not.

Mr. SHERMAN. The only bonds exempt from the income tax are those issued under the funding act of 1861.

Mr. HILL. There are some $64,000,000 of bonds issued in aid of the several Pacific railroads, and those are open to taxation as the bill now stands, and properly so, I think.

The VICE-PRESIDENT. The amendment proposed by the Senator from New York will be stated.

The SECRETARY. After the word "taxation," in line 9, section 55, it is proposed to add, "and except the bonds of any State, municipality, or town."

Mr. HILL. The object of the amendment appears from a bare statement of the amendment itself. It was stated in the brief debate had upon this question last Saturday that one of the reasons why the Government ought not to tax Government bonds is that it necessarily decreases the value of those bonds, aside from any other question which might arise in regard to repudiation. The propriety of exempting the bonds of any State, county, municipality, or town, it seems to me, is clear. In the first place, such a taxation necessarily decreases and diminishes the value of those bonds. It is a direct attack by the General Government against the States and against the administration of the States.

When I say "States" I mean to include the subdivisions of the States, namely, counties, municipalities, and towns. The right of the State to float its own bonds, and thereby I mean to include all these county, municipality, and town bonds, ought to be clear. In the first place, nearly all the Government bonds of the country—in fact, all the Government bonds which can strictly be called such, because the Pacific railroad bonds are not distinctly such—are exempt from taxation by the terms of the pending bill and by law. It seems to me that in justice to the States the same privilege should be accorded to them, namely, that the States should have the right to float their bonds without any governmental taxation.

I am not here prepared to say that technically the power of the Federal Government to tax the income from such bonds may not exist. It has not been decided by any express authority. I think there is considerable doubt about the constitutional right of the Federal Government to tax the income from those bonds. As it has been said before, the right to tax involves the right to destroy, and the Federal Government has no power, either directly or indirectly, to destroy the bonds of a State. If it can diminish their value, then it can destroy them.

Mr. MITCHELL of Oregon. Will the Senator from New York allow me?

Mr. HILL. Certainly.

Mr. MITCHELL of Oregon. Do I understand the Senator from New York to say that there has been no direct decision by the Supreme Court of the United States, as far as he is advised, to the effect that Congress has no power to impose a tax upon State or municipal securities?

Mr. HILL. Yes.

Mr. MITCHELL of Oregon. I am under the impression that there have been several decisions directly in point upon this question, against the power. I think I can find them.

Mr. HILL. Of course, it was held that the General Government had a right to impose a 10 per cent bank tax, which was a tax upon the institutions of the States. Indirectly it was a tax upon the banks of the States, being a tax upon their circulation. That, however, was held not upon the ground we are now discussing, but upon the broad ground that the General Government under the Constitution being vested with the power to create a uniform currency, therefore, by virtue of that power, which superseded all others, Congress had the right in its discretion to tax the circulation of State banks.

But the decision is not placed upon the particular ground of the right to tax the bonds themselves as the creatures of the State government. It was simply upon the ground that the General Government, being vested with the power to create a national currency, and as the State currency more or less conflicted with it, therefore the General Government had the right to do it. That is the case of Veazie Bank *vs.* Fenno, 8 Wallace, 533. That is not an authority for this power.

Now, aside from the question of the exercise of a doubtful power, it strikes me that in justice to the States, which we all represent here upon this floor, as we are representatives of the States as well as of the nation, and the proposed law will bear harshly upon the States, we ought to leave to the States and to the subdivisions of the States also the right to issue bonds, and that they should not be subjected to Federal taxation. As a matter

of propriety, I do not think it wise in framing a bill of this character that we should seek to fill it full of doubtful questions, which must go to the courts to be disposed of.

This is all I propose to say at present upon the propriety of the amendment.

Mr. VEST. Mr. President, the question which was before the Senate when we adjourned Saturday was a very different one from that now presented. It was then contended by the Senator from New York that United States bonds should be taxed by the bill.

Mr. HILL. No; that the income from United States bonds should be taxed, where the law, as I then understood it, only specified that the bonds themselves shall be exempt.

Mr. VEST. Very good; I will take it as the Senator has modified it, that the income on United States bonds should be taxed.

Mr. HILL. Yes; where only the bonds themselves are exempt by statute.

Mr. VEST. The contention then was that no law could be found which exempted from taxation principal and interest of United States bonds.

Mr. HILL. I made no such contention.

Mr. VEST. It was made upon the other side of the Chamber. That law was found, and that question was disposed of. I take it for granted that no Senator here wishes to put a tax upon bonds, the principal and interest of which, by the law of their issuance, are exempt from taxation. That is settled.

Now, the Senator from New York proposes to exempt, in the pretended interest of States and muncipalities, the immense amount of indebtedness in this country which is represented by the bonds of cities, towns, and States. It is apparent on the statement of the question that that is not in the interest of the States or municipalities. They issue bonds; they are sold upon the market; they go into the hands of holders.

The uestion now before the Senate is whether those holders shall not pay their proportion of the burden imposed by the proposed law. Upon page 188, in section 54, which is put in as a substitute for sections 59, 60, and 61, it will be found that States, counties, and municipalities are exempt from the 2 per cent tax upon their net profits with other corporations; and there is also a pending amendment, which I suppose will be adopted——

Mr. HILL. I should like to ask the Senator from Missouri, if he will permit me, what are the net profits of States, counties, and municipalities?

Mr. VEST. I do not know that there would be any net profits, unless it should be said that what they had in their treasuries over and above their operating expenses would be considered as profits. But whether there be any profits or not, that question is removed from all doubt and discussion by the absolute provision of the proposed law. An amendment is pending, as I was proceeding to observe, which exempts the profits of all corporations, their bonded or other indebtedness. So we are remitted to the simple question whether the holders of bonds of cities, towns, and States should not pay the 2 per cent tax with the rest of their fellow-citizens.

There is no good reason why they should be exempt. Take a millionaire, who invests his immense fortune, fifty or a hundred million dollars, in State or municipal securities; shall he be exempt? What would be the result of such legislation? It would be to place an enormous premium upon these securities in contradistinction with other securities of the country. I take it if the income tax is to be defended at all, it should be defended upon the ground of placing an equal burden upon all the people of this country; in other words, that the protection given by the Government to the property of the citizen should be met by a tax upon the citizen, no matter what property he may hold, unless it be within the exemptions of the bill for benevolent, charitable, or educational purposes.

Now, what argument can be made that the holder of State or city bonds, which have been put upon the market and sold and the money received by the State or municipality, and expended by it, should be exempt from taxation? Is that not an investment? Is that not as much an investment as any other which can be made by the citizen? I can not conceive where there is anything in the shape of an equity which should prevent such securities from sharing the common fate under this measure given to all others.

Mr. PEFFER. I submit an amendment intended to be proposed to the pending bill, which I ask may be printed, and lie on the table.

The VICE-PRESIDENT. It will be so ordered.

Mr. HILL. Mr. President, I think the Senator from Missouri begs the question. He refers to that clause in the proposed amendment which provides that "nothing herein contained shall apply to States, counties, or municipalities," and seems to desire us to infer from that clause that some special favor has been granted to the States, counties, and municipalities by reason of it. None has been accorded. What have the States, counties, and municipalities, which they themselves own, which could be taxed?

Their property consists simply of their real estate; it consists of the revenues which they derive by taxation for the support of their respective localities; and you can not under the Constitution tax their real estate, in this way at least. They have nothing else to tax. Therefore this exemption adds nothing to their constitutional rights and takes nothing away. It confers no special privileges upon them. But the attack upon the States is made in this indirect way by providing that their bonds shall be subject to taxation.

Mr. President, we are not only legislating for bonds which have already been issued by States, counties, and municipalities, but we are now legislating in regard to the income derived from future bonds. Will the Senator tell me that the clause in the bill which virtually allows the income from that class of securities to be taxed will not greatly diminish the value of those bonds when they are sought to be put upon the market? If it be fair and right that the General Government's bonds should be exempt from this provision (and I am not now discussing the question of the original fairness or the propriety of that proceeding; it is so denominated in the bonds, and I am not quarreling with that provision), it seems to me, even though there may be a constitutional right to tax, which the Senator from Oregon [Mr. MITCHELL] very much doubts, yet that as a matter of propriety, State, county, and municipal bonds should also be exempted.

Mr. President, the mere fact that a millionaire may own a large number of bonds and that he ought to be taxed is no argument upon this question. A millionaire may own a large number of Government bonds and he ought to be taxed.

Mr. VEST. There is a contract in that case.

Mr. HILL. But we are now making a new contract substantially, because we are now making a law which is to apply to the future issue of State bonds. When, for instance, A bought a year ago $10,000 worth of State bonds of New York, of course he bought them under the idea and theory that they would not be subject to Federal taxation of this character. It is true there is no contract which prevents the Government doing so, but how will it be in regard to future bonds which the State governments may seek to negotiate?

With this provision staring them in the face, will not the States find great difficulty, except with increased rates of interest, in floating their bonds? I submit that in justice to the States, where you are taking away from them these vast fields of revenue, you ought to leave them something, and the right to float their own bonds, free and exempt from this species of governmental taxation, ought to exist.

I submit it will make but very little difference to the parties who own the bonds. I answer the Senator's argument in this way: that it will make but very little difference to those who hereafter purchase such bonds; but when the States, counties, and municipalities proceed to negotiate their bonds in the future they will find that the bonds have fallen in value just by reason of this very provision. The people who buy the bonds will insist upon higher rates of interest to overcome the tax which we are imposing by the terms of the bill.

Mr. HIGGINS. I suggest to the Senator from New York that thereby it will increase the State taxation to meet the interest upon the bonds.

Mr. HILL. Of course that is so. State taxation and county taxation and municipal taxation will be increased, because they all stand upon the same basis. In the first place, it is a doubtful constitutional power. But I am not disposed to press that question. In the second place, as a matter of propriety it ought not to be done, when all your Government bonds are exempt under a contract made years ago, with which I am not quarreling; let bygones be bygones. All the bonds which may be issued in the next six months, as it is anticipated by some that bonds will be issued, will be exempt from this class of taxation. If any Senator's own State wants to negotiate some bonds, your own town or municipality, what reason is there for subjecting those bonds to this new taxation, which will more or less diminish the value of the bonds and increase the rate of interest?

Mr. President, the true theory of the Government is that the States, whether they are limited in the contract or not, can not tax a Government bond. I am not now speaking of the question of interest; that is a different question; but the broad principle is asserted by the General Government, regardless of the question of contract, regardless of what the statute is under which they were issued, is that the States can not tax Government securities. The principle is what I am speaking of. I say a broad reciprocity on the other hand ought to exist, namely,

that when the Federal Government is framing a system of Federal taxation it ought to exempt State, county, and municipal bonds and place them upon an equality, so that the States will not be compelled in the markets of the world or the markets of the country to negotiate their bonds at a higher interest. It seems to me this is fair and right; and whether it did or did not occur to the Finance Committee in the original framing of the bill, is a matter of no consequence. The question now is, Does it not meet the judgment of the Senate?

Mr. PLATT. Will the Senator from New York permit me?

Mr. HILL. Certainly.

Mr. PLATT. Has the Senator examined the question whether the United States can tax the income of a bond which by the statute has been made exempt from taxation; in other words, whether the State can exempt its bonds from all taxation?

Mr. HILL. I have no doubt the State can do it, and that if the State has done it in any particular instance it is beyond the constitutional power of the Government to tax it directly or indirectly.

Mr. PLATT. The States when they issue bonds——

Mr. HILL. Sometimes do that.

Mr. PLATT. Exempt them from taxation as a usual thing, but whether they go so far as to say in the statute "all taxation, State and Federal," I doubt. I understand that it is conceded that you can not oblige an individual to incorporate in his taxable income the salary which he derives from a State. Now, the States in some respect are independent and sovereign. As to their management, as to their autonomy they are independent and sovereign. For some purpose a State deems it necessary to issue a loan. How far can it go in exempting that loan from taxation by the Federal authority? I have not investigated the question; I thought perhaps the Senator from New York had done so.

Mr. HILL. Yes, sir; I have investigated it, allow me to say right here, in my own State. I know numerous instances where bonds have been issued under the authority of the State by municipalities. I know in the city of Brooklyn for the erection of armories several hundred thousand dollars of bonds were issued, and by the terms of their issue they were declared to be exempt from all taxation. Of course I am free to say they did not have in view at that time any Federal taxation. But I submit that where by the terms of the act under which the bonds are issued the Federal Government has no right to tax those bonds where it is provided they shall be exempt from taxation. In other words, we do not tax the salaries of State officers, county officers, municipal officers. Why? Because it is held expressly by the Supreme Court that they are a part of the means or instrumentality of a State government by which to conduct its affairs, and as each State has the right to borrow money, as each municipality is invested with power to borrow money, and therefore the power to issue bonds, the right to protect those bonds from Federal taxation, it seems to me, is a power that must clearly exist.

Mr. HIGGINS. I should like to suggest to the Senator from New York that in one sense it is true the power to tax is a power to destroy. There is no limit upon the discretion as to the amount of tax, which could be laid as heavily as you please, and therefore the power of the State to borrow, which may be indispensable for the proper conduct of business and affairs, is thus subject to this measure. It seems to me under our Federal system an impairment of sovereignty is contrary to our theory and system of government, and it might prove destructive of the ability of the States to conduct their affairs.

Mr. PEFFER. I wish to inquire of the Senator from New York whether in his opinion the law which exempts Government bonds from taxation was intended to include or does include taxation of the interest derived from the bonds? I have here the statute of February 25, 1862, providing for the issuance of a large number of 5-20 bonds and the first issue of greenbacks, and I will read the language of the act.

Mr. HILL. Will the Senator allow me right there? The original act under which bonds were issued and the acts usually, prior to about 1870, specified that the bonds themselves should be exempt from taxation, but they said nothing in regard to the interest. In 1870 and about that time, as was explained by the Senator from Missouri [Mr. VEST] on Saturday, all the bonds were refunded, and it was then provided in the refunding act that both the principal and the interest should be exempted, and all the bonds now outstanding, with the exception of the Pacific Railroad bonds, have been issued under those refunding acts, the bonds amounting to $635,000,000. So there is no escape, it strikes me, from the exemption which has already been placed in exempting that class of Government bonds; in fact, exempting of Government bonds except the bonds issued in aid of the Pacific railroads, which, of course, are not technically Government bonds.

Mr. PEFFER. I think it is important that we have this matter disposed of now, and I will read the language of the original act of February 25, 1862:

> And all stocks, bonds, and other securities of the United States held by individuals, corporations, or associations within the United States, shall be exempt from taxation by or under State authority.

I understand the Senator from New York to claim that the funding act of 1870 provides that there shall be no taxation of the interest. I will see in a moment how that is.

Mr. SHERMAN. It is in the act of 1870, which the Senator has before him.

Mr. PEFFER. I have the act, but I have not yet found the exemption.

Mr. CHANDLER. Does the Senator want the exemption in the act of 1870?

Mr. PEFFER. I have the act of 1870, but I do not find the exemption.

Mr. CHANDLER. It is in the middle of the first section of the act of July 14, 1870. Shall I read it to the Senator?

Mr. SHERMAN. He has it.

Mr. PEFFER. It is as follows:

> All of which several classes of bonds and the interest thereon shall be exempted from the payment——

Mr. CHANDLER. That is it.

Mr. PEFFER—

> Shall be exempted from the payment of all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local autnority, and the said bonds shall have set forth and expressed upon their face the above specific conditions, and shall, with their coupons, be made payable at the Treasury of the United States.

That, I see, covers the whole case. It had not occurred to me that the interest was exempted under the funding act, but I see that I was mistaken.

Mr. CHANDLER. Mr. President, I do not know that I have any interest in making this absolutely bad bill any better, and yet I can not help saying that I hope the Senator from Missouri upon reflection will not place the States and municipalities of this country in a worse condition when they are borrowing money in the future than the United States will find itself when borrowing money. I remember very well when the act of 1870 was passed. I had forgotten about it the other day when the Senator from Missouri was speaking and I read the original income-tax law of 1862. Now it all comes to my mind that when the funding act of 1870 was passed it contained these words:

> All of which said several classes of bonds and the interest thereon shall be exempted from the payment of all taxes or duties of the United States, as well as from taxation in any for m by or under State, municipal, or local authority.

It was distinctly understood that this exemption of the interest upon United States securities excluded a United States income tax. I suppose the Senator contends now that a United States income tax upon Government bonds would be a breach of the promise contained in the act of July 14, 1870. At any rate, I so contend, and I know that was the contention of the framers of the act.

I think the distinguished members of the Finance Committee now on the floor upon this side of the Senate will confirm my statement that the idea of an income tax was distinctly in mind and there was to be no income tax hereafter imposed upon the interest due and payable by the United States upon any of its funded loan.

That being the case, I certainly believe the Senator from Missouri upon reflection will see that it is wise to grant the same exemption from a United States income tax to State and municipal loans. The Government of the United States has the best credit of any known institution upon the face of the globe. The Government of the United States can borrow money cheaper than any State, corporation, or individual; and in order that it may borrow money cheaply it certainly does not need any exemption of this kind (which it has put in its statute book as a solemn pledge of the public faith) so much as do the States and the municipalities of this country.

Many of those municipalities, States, counties, cities, and towns find it difficult to borrow money, and they ought to be assisted as well as the Government of the United States can assist them to obtain good credit to borrow money cheaply.

It has been well shown by the Senator from New York that if this proposed income-tax law passes as applicable to future loans of municipalities, whenever hereafter a municipal loan is made the rate of interest thereon will have to be greater or the premium which will be obtained upon the sale of the securities will be less, by reason of the enactment of this income-tax law than would be the case if this income-tax law were not enacted, or if the exemption which is put into this proposed statute with reference to the income from the Government bonds were applied to the income from city, county, and other municipal securities.

Mr. President, we do not want to put this burden upon the local governments of this country. The Senator will find his bill unpopular enough, and the income tax will be odious enough under any condition. He certainly ought to desire, and I believe does desire, to make the imposition of this tax as light as possible upon the persons and corporations on whom it is to be imposed. Therefore, for the sake of the municipalities in his own State, which are borrowers of money and will hereafter be borrowers of money, for the sake of the municipalities of all the States, and for the sake of the States themselves, I hope he will see that it is no more than fair and just and equitable that if the income derived from the interest on United States certificates shall not be taxed, the income derived from State, county, and other municipal securities shall not be taxed.

Mr. MITCHELL of Oregon. Mr. President, this section proposes a tax of 2 per cent upon incomes of any person arising from interest derived from bonds or stocks and notes. There is no limitation. It applies to the bonds of municipal corporations as well as the bonds of private corporations. It relates to the bonds issued by a county, by a city, and by a State. Even were there no constitutional inhibition I would entirely agree with the contention of the Senator from New York [Mr. HILL] and the Senator from New Hampshire [Mr. CHANDLER]; but I do not believe there is any constitutional power in Congress to impose this tax, and for the reason I shall state. A municipal corporation is, according to the decisions of the Supreme Court of the United State, a portion of the sovereign power of the State, and according to the same decisions is not subject to taxation by Congress upon its municipal revenues.

That was decided first in the case of the United States *vs.* The Railroad Company (17 Wallace, page 322), reaffirmed in the case of Stockdale *vs.* Insurance Company (20 Wallace, page 330), and since then in several other cases. It has been followed up and supported by the opinions of the Attorney-General to the same effect, 13th Opinions, 67, by Attorney-General Hoar; 12th Opinions, 282, by Attorney-General Stanbery, and also in 12th Opinions, 176 and 276.

If the revenues of a municipal corporation are not subject to Federal taxation directly, then they can not be impaired indirectly by levying a tax upon incomes growing out of those revenues or growing out of bonds issued by the municipal corporations.

Away back some twenty-five years ago four counties in the State of Kentucky, two counties in the State of Tennessee, the State of Kentucky itself, and the city of Louisville all became subscribers to the bonds of the Louisville and Nashville Railroad Company and furnished money in order to enable that company to build its road. The internal-revenue law of 1864 levied a tax of 5 per cent upon the income of the Louisville and Nashville Railroad Company. The company declined to pay the tax on the ground that although the tax was levied upon the corporation it was really a tax upon the revenues of the holders of the bonds, and they being State, county, and municipal corporations were not subject to taxation, either directly or indirectly.

The Supreme Court of the United States sustained the company in that contention, holding that it was indirectly a tax upon the revenues of a State, county, and municipal corporation.

Mr. HOAR. I was called out for a moment when the Senator was speaking and lost the first part of his statement of the case. Will he be good enough to repeat it?

Mr. MITCHELL of Oregon. Two counties, I think, in the State of Kentucky, perhaps four in Kentucky and two in Tennessee, or vice versa, the State of Kentucky itself and the city of Louisville each and all subscribed for the bonds of the Louisville and Nashville Railroad Company, and furnished money to enable that company to build its road. Subsequently the United States in the internal-revenue act of 1864 levied a tax of 5 per cent against the Louisville and Nashville Railroad Company. The company declined to pay the tax upon the ground, as contended, that it was a tax not on the company, but really upon the revenues of the State, counties, and municipalities. The Supreme Court of the United States in the case of The United States *vs.* The Railroad Company (17 Wallace, 322), and again in Stockdale *vs.* Insurance Company (20 Wallace, 330), sustained that contention, holding that municipal corporations are portions of the sovereign power of the States and therefore their revenue is not subject to taxation by Congress.

I admit that case is not directly in point, but I contend all the same that the principle enunciated in that case to the effect that Congress has not the constitutional power which is proposed to be invoked by this provision of the bill, and for this reason: If there is no constitutional power in Congress to impose a tax directly upon the revenues of a State, county, or municipal corporation, then there is no power to do anything in the way of taxation indirectly which would in the slightest manner or to any extent whatever impair the value of the securities of that State, or county, or municipality.

As to taxation, as suggested a few moments ago by the Senator from Delaware who sits in front of me [Mr. HIGGINS], if the constitutional power exists to impose taxation it exists to the fullest extent, even to the extent of destroying the thing taxed. If Congress can levy a tax of 2 per cent, or 5 per cent, or any other per cent upon the income that grows out of bonds issued by a State or a county or a municipality, then Congress, I submit, is to that extent impairing the value of those securities, and is therefore imposing a tax which the Supreme Court of the United States has declared over and over again can not be imposed by Congress upon the revenues of a State, a county, or a municipality; and, as suggested by the Senator from Massachusetts [Mr. HOAR], it can make the borrowing of money by a municipality absolutely impossible, and there would be no limit to the power of Federal taxation.

Here is the city of Philadelphia, which is, as I understand, about to issue some ten or twelve million dollars of bonds. It has not yet been done. If this bill becomes a law, will anyone contend for a moment that those bonds can go into the money market at the same money value, the same salable value, that they would go into the money market if no such act existed? Certainly not. What, then, is the result of the proposed legislation? It is to indirectly tax the revenues of the municipalities.

I insist, therefore, that the decisions to which I have attracted attention, although not made in cases directly in point, are of that character which leads inevitably to the conclusion that there is no power to impose a tax upon the bonds of municipalities or the income arising out of them, as proposed by this section. Nor would it make any difference, in my mind, even if there were a provision in the act authorizing the issuance of the bonds that they might be subject to taxation. That would have nothing to do with the power or the lack of power on the part of the Federal Government.

Personally, I should be very glad to vote for this provision as it stands, and compel all who are able to hold the bonds of a State, or a county, or a municipality to pay taxes upon the income derived therefrom; but as I look at it, I do not believe there is any such power existing in the Congress of the United States.

Mr. HILL. I realize, Mr. President, the natural anxiety of the friends of this measure for its early disposition, and I concur in the propriety of a speedy disposition of the bill. Notwithstanding all that, this is a very important question to the several States of this Union. Its importance will be apparent as time rolls on. Therefore, I must ask the indulgence of the Senate for a few moments longer while I refer to a decision in 17 Wallace Reports, in the case of the United States *vs.* The Railroad Company, page 322, which was substantially this case. The case arose under the internal-revenue act of 1864, which was one of those amendments applying to the income tax.

Mr. MITCHELL of Oregon. That is one of the cases to which I referred.

Mr. GRAY. The Senator from Oregon read it.

Mr. HILL. I was not aware of that.

Mr. MITCHELL of Oregon. I did not read from the case.

Mr. HILL. Did the Senator state what the case was?

Mr. MITCHELL of Oregon. Yes, I stated it was the case of the United States *vs.* The Railroad Company, 17 Wallace, 322.

Mr. HILL. My attention was diverted for the moment, and I did not know that.

Mr. MITCHELL of Oregon. That is one of the cases to which I called attention.

Mr. HILL. Mr. President, it strikes me there is no answer to this proposition and that it is so just and so fair that it ought to be adopted by the friends of the pending measure. It would improve the income-tax provision. I have no question about it, and I certainly think the bill ought not to be loaded up with provisions of doubtful constitutionality.

I shall not, however, trespass upon the indulgence of the Senate further at this time.

Mr. HIGGINS. I want to say just a word. The pending bill in many respects and in its income-tax provision invades the domain of the States by imposing a tax upon them, rather than relying upon customs and excises as their appropriate and adequate means of revenue, but this proposed tax on the incomes of the bonds of States, counties, and municipalities actually becomes an instrument of levying a tax through State taxation. It requires a State to raise a heavier tax by the extent of this imposition than it otherwise would in order to meet a Federal exaction. It not only invades the domain of the States, which ought to be left entirely and exclusively to the States, but it makes the States themselves, through taxation, the instrument for the collection of Federal taxation.

Mr. SHERMAN. Mr. President, I wish to say a word about this question. The more I think about it the more I become

satisfied that it will be ineffective to levy an income tax upon either the officers of the State or upon the State itself, whether the bonds be issued by the State or by the municipal authorities of the State. I think from the decisions of the Supreme Court before me the tax will be invalid.

It seems to me that it would be better to insert at once in this bill an exemption of all taxes on the salaries of officers of a State or upon the bonds issued by a State. It seems to me that the necessary agencies of a State in the conduct of its business, the management of its municipal affairs, the government of counties and townships, the power to borrow money, are indispensable, and without them local government could not be conducted, and the State government could not be conducted, as shown by the fact that every State in the Union has at one time or another borrowed money.

The right and the power in the United States to borrow money exists also among the States and the municipal corporations, and the Government of the United States has no power to cripple their right to borrow money by imposing an income tax or any other kind of tax upon them.

I am supported in my view by two decisions which I have before me, which, although not directly in point, on the whole, I think, raise a question of such doubt that we ought not to impose this tax, but should relieve the States and municipalities from it, and not assert the power to levy it.

Mr. ALLISON. I think the Senator from Missouri ought to accept this amendment. Why was it that in all our loans during the war we provided that our bonds should be exempt from all forms of taxation under State or municipal authority? It was the assertion of the sovereignty of our Government as to its creditors. That exemption runs through all our loan laws. We went further in the act of 1870 and provided that they should be exempt from Federal taxation.

Therefore, it seems to me that as to the power of borrowing money the States are as supreme and independent as the Government of the United States; and if we are to assert the power for ourselves, whether we assert it or not as to the States, that comity which should exist between this great Government of ours, and its several parts, the States, would require that when we are dealing with taxation, unless we are in great stress, we should say to the State, "We accord to you what we exacted from you and do exact from you when we are required to borrow money." That is all.

It can not be claimed for a moment but that this exemption as to our own bonds immensely strengthens them, and it can not be contended for a moment that the assertion of a power to tax State and municipal bonds will weaken them. Why should we do that? If we are under such great stress that we are to get into trouble with the States and municipalities, so be it, but I see no necessity for it. Therefore, I hope the Senator from Missouri will yield the point suggested by the Senator from New York.

Mr. VEST. I have yielded too many points.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from New York.

Mr. HILL. Upon that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOAR. Mr. President, the more this matter has been discussed the graver this objection to the bill as it now stands seems. I should be very sorry, indeed, for the sake of any mere present exigency in the contest over the pending bill, to have the Senate do anything which would seem to deprive for all time the United States of any particular resources of taxation, unless it has already been done by the Constitution. I hope for that very reason, without having the question absolutely determined now, the Senators in charge of the bill will allow this amendment to be adopted and the matter postponed for the judicial consideration of the future.

Of course we are shutting the United States out from a very large source of revenue, which we may need in some great public emergency, like that through which we passed in the time of the late war, if we adopt an inflexible principle that we can not tax these salaries under any circumstances.

I should like to hear from the Senator from Missouri [Mr. VEST], who is a trained and profound lawyer, what is the difference in principle, in his mind, if there be any, between this case and the case of Buffington *vs.* Day? In Buffington *vs.* Day it was held by the Supreme Court of the United States that where the State had contracted with a certain person to perform a certain public function, the sum of money which the State had promised to pay him for that service could not be taxed by the General Government on the ground that it would deprive the State of the power to contract for such service, and so the service could not be accomplished.

What difference in principle is there between that case and the case of the State or the county borrowing money to be paid to obtain for itself that service? If we can tax the one, we can prohibit the other, and if we can tax the other, we can prohibit it; if we can make it inconvenient or expensive, we can make it impossible. The State and the United States are equal, each within its own sovereign sphere, and the Constitution points it out.

Under what authority can the United States tax the right or the power to borrow money by the State of Missouri, and deny to the State of Missouri the right to tax the money borrowed by the United States of America? We have an officer known as the highway commissioner in many of our cities and towns, and, for a salary, he undertakes the duty of keeping the roads in repair; which is an agreed and admitted function of sovereignty.

You can not under the decision in the case of Buffington and Day tax the salary which is paid to that man for doing that thing; but if the town borrows the money and does the thing itself, it is claimed you can tax the money borrowed for this same purpose; in other words, you can not tax the expenditures for performing public services if they are performed by a hired and salaried agent of the public, but you can tax the precise expenditures made for precisely the same service if the public does it itself and takes the expenditure in its own hands. I can not at this moment think of any sound distinction between the two cases. I should be very glad to hear any lawyer or any Senator on the other side point it out.

Mr. VEST. Mr. President, I am so anxious to dispose of this bill, which has been hanging here for three months, that I have refrained, so far as my duty would permit, from making even any statement or argument, although very much provoked at times to trespass on the patience and time of the Senate. While the Senator from Massachusetts [Mr. HOAR] was absent from the Chamber, I made a brief reply to the Senator from New York [Mr. HILL], and did not intend to say anything more in regard to the matter.

It seems to me that the decisions of the Supreme Court do not affect this question at all. Every lawyer worthy of the name will admit that the Federal Government can not destroy the official functions of the State either by taxing the salaries of its officers, or by using the taxing or any other power in order to cripple the constitutional duties imposed upon the State governments in the autonomy of our General Government upon the whole government of the country. That is a proposition about which there will be no dispute.

But Senators, it seems to me, run that argument into absurdity, with great respect to them. They now say that you can not indirectly diminish the resources of the States by putting a tax upon bonds which they issue, or that their municipalities may issue. What is the logical and inevitable result of that statement? It is that the supreme power—I use the word "supreme" advisedly—of the General Government to carry on the General Government and raise the money necessary for the General Government, gives that Government the right to use all the property of all the citizens in all the States for that purpose.

If it be held here that we can not constitutionally tax the sureties issued by a State, the same argument will apply to other property within the State; and you must admit that the primary right to use the property of the State by the State government must first be made before the General Government can tax it. For instance, take whisky, which is taxed by the State. According to this argument, we must first wait and see what the extent of the tax put upon it by the State government will be, and let the State have a first lien, so to speak, upon all this property before the General Government can exercise what I say is its primary power of taxation without limitation.

Mr. MITCHELL of Oregon. If the Senator will allow me, nobody disputes the double power of taxation, so far as Federal or State taxation is concerned.

Mr. HOAR. If I may be permitted, I wish to ask the Senator one question, which may put the point exactly as it is in my mind. Is not the money that the State pays me for a service, for instance, as treasurer or governor or judge, just as much my property as the money that the State pays me for the use of money that I let it have for its public purposes?

Is there any distinction in that respect? If there be none, and if it is my property, the interest on my debt, or the salary of my office, it is just the same. The United States can not tax the salary, because it would make the State's performance of its public functions more expensive or more inconvenient, which is clear and is settled in the case of Buffington and Day; and you can tax the interest on money they lend. What is the distinction?

Mr. VEST. It seems to me the difference is this: You can not tax out of existence an office by taking away all of its emoluments, as would be done by the General Government if it taxed the salary of a State officer to the full extent of that salary, because then you invoke the doctrine, which I admit and every

other lawyer must admit, that the Government can not tax out of existence the functions of the States, even in the exercise of its supreme power of taxing them. That would revolutionize the Government and destroy absolutely one portion of it. That goes without saying. But that argument does not apply in this case, because here are simply bonds which are not connected with official functions, bonds which are sold by the State or the municipality and the money taken into their treasury.

The question here is simply, shall these bonds, like other property belonging to individuals, bear their proportion of the common taxation which the Government, through Congress, deems necessary for the purposes of the General Government?

What does the Supreme Court say in the celebrated decision in regard to the taxation upon State banks? The court held that that tax was constitutional. Why? Because the General Government in the exercise of its power to control the finances of the United States had the right to impose that tax in order to strengthen the financial system of the General Government; in other words, the power of the General Government as to its functions was absolute and supreme. If you carry the argument which is made here to-day to its full and logical extent you would cripple the General Government and eliminate that distinctive feature as to its power, and say that the States can issue securities that are not available at all for the purposes of the General Government. What would be the result? Any State could issue securities in which its citizens might invest all their money and thus escape the burden that is imposed upon the balance of the people of the United States.

If this income tax be constitutional it ought to be equal in its terms, and it ought to operate upon all securities alike. If we should do now what we are asked to do, what would be the inevitable result? All the State and municipal securities would immediately go to an immense premium, and all the capitalists of this country would invest in them, because we should make them by act of Congress more valuable than any other investment.

I am not authorized, though Senators appeal to me, to accept this amendment. This provision was deliberately adopted in the House of Representatives and by the Finance Committee of the Senate, and I am unable to find under the old income law where it was proposed to do anything else than what we propose to do now. I am not authorized upon the appeal of anybody to give up one of the most important features of this bill, and destroy the equality which I think ought to pervade all its provisions. If the Senate see proper to overrule the committee and amend the bill as it came from the House by this radical change, of course I am bound to submit, but in any event, Mr. President, let us vote.

Mr. SHERMAN. I shall not delay the Senate more than a few minutes in calling attention to the decision of the Supreme Court of the United States, made by a judge whose authority is well recognized.

I had a great deal of trouble myself in regard to this matter. During the war, as a matter of course, we extended the taxing power probably far beyond what we should have done in time of peace, and we imposed an income tax upon the salaries of the judges of the State courts and other officers of the State governments. The Supreme Court of the United States in 1870 was called upon to consider the question as to whether it was within the power of Congress to make this levy. The general head of the decision in the case of Collector *vs.* Day is as follows:

> It is not competent for Congress under the Constitution of the United States to impose a tax upon the salary of a judicial officer of a State.

This was decided in 1870, and the decision was rendered by a gentleman of great reputation in this country, Mr. Justice Nelson. The particular case of the taxing of bonds issued by a State government was not before the court, but the identical subject-matter, the power to interfere with the government of a State in establishing a judicial tribunal or in collecting money for the support of the State government, or imposing taxes by issuing bonds, was necessarily involved. Here is what Judge Nelson says, and it applies just as strongly to the case before us as it did to the case then before the Supreme Court:

> The General Government and the States, although both exist within the same territorial limits, are separate and distinct sovereignties, acting separately and independently of each other, within their respective spheres. The former in its appropriate sphere is supreme: but the States within the limits of their powers not granted, or, in the language of the tenth amendment, "reserved," are as independent of the General Government as that Government within its sphere is independent of the States.

Again, he says:

> Two of the great departments of the Government, the executive and the legislative, depend upon the exercises of the powers, or upon the people of the States. The Constitution guarantees to the States a republican form of government, and protects each against invasion or domestic violence. Such being the separate and independent condition of the States in our complex system, as recognized by the Constitution, and the existence of which is so indispensable that without them the General Government itself would disappear from the family of nations, it would seem to follow, as a reasonable if not a necessary consequence, that the means and instrumentalities employed for carrying on the operations of their governments, for preserving their existence and fulfilling the high and responsible duties assigned to them in the Constitution, should be left free and unimpaired, should not be liable to be crippled, much less defeated by the taxing power of another government, which power acknowledges no limits but the will of the legislative body imposing the tax.

Then he proceeds in the same line of argument to show that the judicial power exercised by the State courts was absolutely, and must be absolutely, free and independent from the control of the General Government as any other function of government. It seems to me this principle covers this case.

The case to which the Senator from Missouri [Mr. VEST] refers does not apply at all. There the Supreme Court decided that the tax of 10 per cent upon State bank notes was valid; but the State banks were not agencies of the governments of the States in any sense of the word, and they did not perform any of the functions of government. They were mere creations for a certain purpose, which might be controlled and taxed by the Government of the United States. Therefore they did not stand in the same position as the power to borrow money or the power to organize courts, or the power to administer justice, or the power to arrest offenders and punish them. Those are distinct State powers.

We have no authority, it seems to me, to levy a tax upon the bonds or securities issued by State or municipal authority. It strikes me so, and therefore I shall vote for the amendment because I believe that under the circumstances we have no power to levy this tax and ought not now to attempt to exercise it, even if we had the power. We ought not to interfere with the ordinary functions of the State governments in any way whatever; and while I do not suppose I would be regarded as a State's rights man, in the old-fashioned sense of that term, yet I do believe that we should respect all proper rights of the States and that the General Government should not undertake to tax the securities of the States and municipal organizations so as to interfere with the proper exercise of their powers.

Mr. TELLER. Mr. President, I do not desire to discuss the question whether Congress has the power to enact a statute of this kind. I agree with the Senator from Missouri that in matters within the jurisdiction of Congress, of course Congress is absolutely supreme. But each State is as much a sovereign power in its sphere as the General Government.

I intend to vote for this amendment without reference to our power, upon the theory that as an act of courtesy we should not tax the securities of a State unless there is an absolute necessity for the revenue. That nobody will claim, and because there is no such necessity we ought not to raise the question whether we have a right to levy such a tax.

I repeat that as an act of courtesy to the States, State securities should be exempt. For that reason I shall vote for the amendment, but I do not wish to be so committed by that vote that I may not say at another time under different circumstances that the Government of the United States may go to the extent of taxing securities of the States.

Mr. HOAR. I put a question to the Senator from Missouri and his answer has not removed and indeed has not tended to remove the difficulties which were in my own mind. But I desire to say that I wish to confine myself in voting for this amendment to the reason stated by the Senator from Colorado [Mr. TELLER], that it is not expedient to raise this question or to interfere with the money-borrowing powers of the State and municipal instrumentalities, there being no public urgency which requires it. I leave the question of absolute power to future consideration.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from New York [Mr. HILL], upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. GORDON (when his name was called). I am paired with the Senator from Iowa [Mr. WILSON].

Mr. MITCHELL of Oregon (when his name was called). I am paired with the senior Senator from Wisconsin [Mr. VILAS]. If he were here I should vote "yea" and he would vote "nay" I presume.

Mr. MITCHELL of Wisconsin (when his name was called). Once for all for the day I wish to announce my pair with the Senator from Wyoming [Mr. CAREY].

Mr. MORRILL (when his name was called). I am paired with the senior Senator from New Jersey [Mr. MCPHERSON], and therefore withhold my vote.

Mr. PATTON (when his name was called). I again announce my pair with the junior Senator from Maryland [Mr. GIBSON]. If he were present I should vote "yea."

Mr. PETTIGREW (when his name was called). I should like

to know if the junior Senator from West Virginia [Mr. CAMDEN] has voted.

The VICE-PRESIDENT. He has not voted.

Mr. PETTIGREW. I am paired with the Senator from West Virginia [Mr. CAMDEN]. If he were present I should vote "nay."

Mr. DAVIS (when Mr. QUAY'S name was called). I was requested to announce for the day the pair of the Senator from Pennsylvania [Mr. QUAY] with the Senator from Alabama [Mr. MORGAN].

Mr. SMITH (when his name was called). I desire to announce for the day my pair with the junior Senator from Idaho [Mr. DUBOIS], who is absent from the city.

The roll call was concluded.

Mr. PETTIGREW. I ask that my vote be recorded, as the junior Senator from West Virginia [Mr. CAMDEN] I am informed would vote "nay." I vote "nay."

Mr. MORGAN. Is the junior Senator from Pennsylvania [Mr. QUAY] recorded as voting?

The VICE-PRESIDENT. He has not voted.

Mr. MORGAN. I am paired with the Senator from Pennsylvania [Mr. QUAY].

Mr. CALL. I am paired with the Senator from Massachusetts [Mr. LODGE]. I transfer my pair to the Senator from South Dakota [Mr. KYLE] and vote "nay."

Mr. GORDON. I transfer my pair with the Senator from Iowa [Mr. WILSON] to the Senator from West Virginia [Mr. CAMDEN] and vote "nay."

Mr. WHITE (after having voted in the negative). I observe that the Senator from Idaho [Mr. SHOUP] is not in the Chamber. I therefore withdraw my vote.

The result was announced—yeas 25, nays 30; as follows:

YEAS—25.

Aldrich,	Frye,	Hoar,	Sherman,
Allison,	Gallinger,	McMillan,	Squire,
Chandler,	Gray,	Manderson,	Teller,
Cullom,	Hale,	Perkins,	Washburn.
Davis,	Hawley,	Platt,	
Dixon,	Higgins,	Proctor,	
Dolph,	Hill,	Pugh,	

NAYS—30.

Allen,	Daniel,	Jones, Ark.	Ransom,
Bate,	Faulkner,	Lindsay,	Roach,
Berry,	George,	McLaurin,	Turpie,
Blackburn,	Gordon,	Martin,	Vest,
Blanchard,	Harris,	Mills,	Voorhees,
Call,	Hunton,	Pasco,	Walsh.
Cockrell,	Irby,	Peffer,	
Coke,	Jarvis,	Pettigrew,	

NOT VOTING—39.

Brice,	Gorman,	Morgan,	Smith,
Butler,	Hansbrough,	Morrill,	Stewart,
Caffery,	Jones, Nev.	Murphy,	Vilas,
Camden,	Kyle,	Palmer,	White,
Cameron,	Lodge,	Patton,	Wilson,
Carey,	McPherson,	Power,	Wolcott.
Dubois,	Mitchell, Oregon	Quay,	
Gibson,	Mitchell, Wis.	Shoup,	

So the amendment was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. O. TOWLES, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 4701) to incorporate the Supreme Lodge of the Knights of Pythias.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 6893) to regulate water-main assessments in the District of Columbia, agreed to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HEARD, Mr. RICHARDSON of Tennessee, and Mr. HARMER managers at the conference on the part of the House.

The message further announced that the House had passed a bill (H. R. 7007) regulating the sale of certain agricultural products, defining "options" and "futures," and imposing taxes thereon and upon dealers therein; in which it requested the concurrence of the Senate.

The message also announced that the House requested the Senate to furnish a duplicate copy of the bill (S. 1919) to ratify and confirm an agreement with the Yuma Indians in California, for the cession of their surplus lands, and for other purposes, the original having been mislaid.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolution, and they were thereupon signed by the Vice-President:

A bill (H. R. 5806) to authorize the city of Hastings, Minn., to construct and maintain a wagon bridge over the Mississippi River; and

A joint resolution (S. R. 57) directing the Secretary of War to appoint a commission of engineers to examine and report upon the cost of opening the harbors of Superior and Duluth and their entrances to a uniform depth of 20 feet.

DEALING IN OPTIONS AND FUTURES.

Mr. WASHBURN. I ask that the antioption bill be laid before the Senate and referred to the Committee on Agriculture and Forestry.

Mr. HOAR. I think that measure went to the Judiciary Committee in the last Congress.

The VICE-PRESIDENT. The Chair lays before the Senate a bill from the House of Representatives.

The bill (H. R. 7007) regulating the sale of certain agricultural products, defining "options" and "futures," and imposing taxes thereon and upon dealers therein, was read twice by its title.

Mr. HOAR. Is it in order to deal with this bill now and to displace the pending measure, except by unanimous consent?

The VICE-PRESIDENT. The Chair thinks not.

Mr. HOAR. If it is to be considered I wish to address the Senate on the question of reference.

Mr. HARRIS. The regular order, Mr. President.

The VICE-PRESIDENT. The Chair was not apprised as to the purpose of the Senator from Minnesota, and in order that the matter might be brought before the Senate, he laid the bill before the Senate.

Mr. HOAR. Very well; it will go over for the present.

DUPLICATE BILL.

The VICE-PRESIDENT. The Chair lays before the Senate the request of the House of Representatives to transmit to it a duplicate copy of the bill (S. 1919) to ratify and confirm an agreement with the Yuma Indians in California for the cession of their surplus lands, and for other purposes, to take the place of the original copy, which has been accidentally mislaid. The request of the House of Representatives will be complied with in the absence of objection.

THE REVENUE BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 4864) to reduce taxation, to provide revenue for the Government, and for other purposes.

Mr. HILL. I move to amend section 55, page 171, in line 9, by inserting after the word "taxation," the words "and except the bonds of any State;" so as to read:

Except such bonds of the United States as are by the law of their issuance exempt from all Federal taxation and except the bonds of any State.

Mr. President, whatever may be said in regard to the propriety of exempting municipal, town, or county bonds, it appears to me that there can be no sort of doubt about the propriety of the exemption of State bonds. For every conceivable purpose the State should be placed upon an equality with the General Government. If the General Government can exempt its bonds from Federal taxation and can exempt its bonds from State taxation, the State sovereignty should have the same right and the same power, especially under a tax like the one now proposed. It strikes me that no reason can be urged why that power should not be allowed to remain in the State government if it does not already remain there under the Constitution.

I do not care to repeat what I have already said, first, that under the Federal Constitution it is a matter of grave doubt whether any right of taxation such as this exists. Whether that be true or not, the propriety of the State having a right to have its bonds exempted is manifest. I need not reiterate the argument that it affects the value of the bonds. That was the very reason why the General Government in its original act and in the funding act provided that its bonds should be free from taxation, both State and Federal. It was not simply to guard against the aggrandizement of the States. That was not it. It was to give those bonds a value, to give them a market, to make them easily negotiable in the markets of the country and the world. It is conceded that the Government can not tax these bonds directly, and what it can not do directly, it can not do indirectly. It can not tax the income of these bonds, because from the very nature of things it affects the value of the security.

Mr. President, the sovereignty of the State is equal, within its sphere, to the sovereignty of the National Government. The General Government has by law and by contract exempted from taxation $635,000,000 of its bonds, being technically all the Government bonds in existence. That very exemption, which is continued in the pending bill, gives a value to Government securities. It is a right which it seems the General Government has always exercised, a right depending upon the discretion of Congress. It strikes me that as a matter of propriety this exemption ought to be allowed, as a question of State rights, placing the two sovereignties side by side with the right of each one to make its securities equal before the law and equal before the world on a question of negotiation.

It is idle to say that this legislation does not strike at the value of State securities. It does. I have changed the amendment which before included towns, municipalities and counties. Now the broad question is presented, State rights *vs.* National rights. Shall the National Government step in here and be allowed to tax the incomes upon State securities?

It is said that the tax in form is against the individuals who own the bonds. So in the case in 17th Wallace the tax in form was against the railroad company, but it was held that the tax was virtually against the city of Baltimore, and that those revenues could not be diminished by Federal taxation.

The same principle, sir, exempts these bonds from governmental taxation. There will be enough legal questions arising under the bill to keep our courts busy during its term of five years without adding any more to them. I fail to see the force of the suggestion made that we ought not to tax income from these bonds because the income belongs to individuals. The Senator from Missouri made the suggestion that we have a double taxation upon whisky, and asked whether anybody raised the point that that can not be done.

Whisky is not one of the instrumentalities of a State government that I know anything about. It may be one of the instrumentalities of the State of Missouri, but it is not of my State or of any other State, I think. I do not believe the Senator thinks it is one of the instrumentalities of his State. The right of internal-revenue taxation upon a manufactured article like whisky of course exists. Nobody has disputed it. That is an entirely different question from this. Of course, there can not be a taxation upon land directly except through the forms prescribed by the Constitution. It can not be done, of course, by an income tax.

The Federal Government is now seeking through the means of an income tax to reach property which can not otherwise be reached under the existing methods or systems of taxation. As a question of propriety or justice to the States, of their rights under the Constitution, having equal sovereignty with the National Government over the question of taxation, it strikes me that there is no answer to this proposition. I know the Senator from Missouri, having charge of the bill, dislikes to accept amendments. He seems to regard it as his duty—I do not question his situation in that respect—to oppose all the amendments offered. He, of course, thinks that they are made to obstruct the bill.

I assure him this amendment is moved to perfect the bill. Will it not tend to make the bill fairer and better to defend before the people? When we go back to our constituents and tell them, "Yes; we were obliged to exempt from taxation Government bonds; we could not help ourselves; it was necessary to do it, because years ago it was so provided; besides, as a matter of propriety, it might be said that ought to be done," I think that the very first question that the zealous States-right Democrat will ask us is, "Why did you not treat your State bonds, then, in the same way?"

Our State is now about to sell certain bonds, and we are met with the allegation that the Congress at Washington has provided a tax of 2 per cent additional upon its income. That affects the value of these bonds, We can not negotiate them except at a higher rate of interest.

That higher rate of interest becomes a direct tax upon the people of the respective States on their real and personal property. So we only cut off our noses to spite our faces, because this very attempt to save here something for the General Government and thereby to a certain extent save something for the people, only reacts upon the State governments and imposes more taxation upon the people of the respective States, where there is direct taxation.

I dislike to reiterate these arguments over and over again, because I am as anxious as is any Senator here to expedite the disposition of this measure. But, sir, I present them in this brief, crude way, and if the Senate understands the question, I I have said all I care to say.

Mr. VEST. Mr. President, I do not propose, if I can avoid it and retain my self-respect, to discuss anything but what is legitimately before the Senate. No sort of personal fling at me or my State will deter me from my object, which is to get rid of tariff legislation and give relief to the country.

Mr. HILL. I trust the Senator will not think I made any personal allusion to himself.

Mr. VEST. In regard to the instrumentalities of the State of Missouri, I think they will bear examination as compared with the instrumentalities of the slums of New York. If the pending bill were disposed of, I should be ready to pay my part of the expense in hiring a hall and discussing this question with the Senator from New York if it will afford him any pleasure whatever. I alluded to the tax on whisky because I thought the argument of the other side, legitimately carried out, as to impairing the resources of a State government, went to all property taxed in the domain or upon the soil of any State; and I think yet that it was a proper application of that argument.

I do not believe that there is any constitutional objection to the provisions of the bill to make every citizen give in that portion of his income which comes from an investment in State bonds when, together with his other income, it exceeds $4,000.

The Senator from New York appeals to me to make the bill more popular. I am not questioning the sincerity of that appeal; let it go; but if I wanted to murder the bill with the people of the United States I should put his amendment upon it. There is not a feature of the legislation of the United States to-day more odious to the people of this country than that which exempts United States bonds from taxation. If I had been in Congress I should never have supported that legislation, even under any appeal to maintain the national credit.

The idea that men can go into market overt and buy the bonds of this country, payable in gold, at 60 and 70 cents on the dollar, and then be exempt from Federal taxation, is a monstrous one, and the people of the whole country have long since repudiated it. If I wanted to damn the pending bill I should extend that principle. When every Senator who votes for this amendment goes back to his people they will not say to him, as the imagination of the Senator from New York conjures up, "Why have you taxed your State bonds and thereby diminished their value," but instead the question put by the average American citizen to the Senator who votes for the amendment will be: "Why did you, pretending to put a 2 per cent tax upon the incomes of the people of the United States over $4,000, exempt the capitalists who buy the State bonds of New York or Missouri?" That will be the question. It will be, "Why did you undertake to extend to your State bonds the odious feature, now upon the statute book, which exempts the capitalist of the United States from all taxation upon United States bonds?" And it will be a proper question.

Who make investments in these bonds? Is it the man dependent upon his everyday labor for subsistence? Is it the man living upon a salary even of five or six thousand dollars? It is the capitalist. It is the man who desires to make an investment which will pay him such a per cent certainly and surely upon his investment. Yet, we are asked here deliberately, in levying an income tax, which we are endeavoring honestly to make equal and just in all its operations upon the people of the United States, to exempt the capitalist in the name of State rights.

Mr. President, I give way to no one in my zealous support of the doctrine of State rights under the Constitution, as I understand it. I have been devoted to that doctrine during my whole life, and I stand here to-day to defend it. But if State rights shall lead me to exempt the capitalists of this country from their just proportion of the common burdens of the people, then State rights must give way to all the instincts and teachings of common justice.

Mr. HIGGINS. Mr. President, I think there is a great deal happening to seriously impair our confidence in the fidelity of the Democratic party to the doctrine of State rights. It is not the first time it has happened in the history of the Government either. While they were out they got up the Kentucky and Virginia resolutions of 1798. Then, when Mr. Jefferson and Mr. Madison came in, they got as far as the embargo act, by which the Federal authority laid its strong hand upon the freedom of commerce of the United States. Mr. Jefferson said he was unable under the Constitution to buy Louisiana, but he swallowed his scruples and with the Democratic party, then in charge of the Government, took the greatest step of his life.

Now, when the Democratic party are in possession of the three branches of this Government, they come in with a Federal income tax, and not content with invading the sphere of the States and taking from the States what is the legitimate subject-matter of taxation and revenue for the States and appropriating it to the General Government, giving up to that extent the Federal Government's peculiar sphere of customs and excise taxation, they must now come in here and put a tax upon the State bonds themselves, all the time pretending to be a party for State rights.

The only good thing I can see in it is that they see the folly of the doctrine of State rights in its extreme extent, and that when they are brought face to face with the exigency of carrying on the Federal Government they will stretch the power of the Federal Government quite as far or farther than anybody else.

The Senator from Missouri speaks of investing in bonds at 60 and 70 cents on the dollar. That happened during the war. The credit of the General Government was seriously impaired at that time by circumstances which I should not undertake to speak of if the Senator from Missouri had not referred to them in this way.

To-day, however, nobody invests in Federal bonds at a discount but at a premium, and when you seek to place taxes upon the investments of capitalists you are really putting them upon the taxpayer, for just to the extent of this income tax upon those bonds will their price in the market be affected, and will there be requirement of larger interest to be imposed. That larger interest will result in increased taxation, and while you are seeking vainly and foolishly to get at the capitalist, you are striking down on the back of the taxpayer and taking that much revenue from the sphere of the States; and that is being done by this great party of State rights.

Mr. HILL. Mr. President, I regret that the Senator from Missouri seemed to think that the only way he could answer my argument was by some personal fling at myself. It makes no difference, sir, whether this amendment was offered by a gentlemen who represents the slums of New York or represents Missouri. I shall not imitate him by descending into any personal reflection upon him or his State.

Mr. VEST. You commenced it.

Mr. HILL. I did not commence it. The Senator had chosen to illustrate the point of his argument by referring to a double taxation upon whisky. The point of the whole argument upon the side I was arguing was that you could not tax the instrumentalities of a State government, and I naturally retorted that whisky was not one of the instrumentalities of my State. I good-humoredly said I supposed it was not one of those of Missouri, and my friend from Missouri seems to regard that I have insulted him and his State.

Mr. VEST. Oh, no.

Mr. HILL. It was farthest from my intention so to do. I simply thought that when he gives thrusts he could accept them in a good-humored way. That was all that I intended to say; and then he goes out of his way to fling the taunt at me that I represent the slums of New York. The other day the charge against me was that I represent the millionaires of New York, and now it is the slums of New York.

Mr. President, I represent all classes of my people, and those who reside in the lower districts of New York have just as many rights as those who reside along the Mississippi in the State of Missouri. All are interested in this legislation, those who have property and those who have not; and no fling of the Senator, no unjust or unnecessary taunt upon his part will lead me to imitate his example, but I shall continue right to the point which I have undertaken to discuss. He says at some other time we can hire a hall together and discuss this question, but he does not seem to like to discuss it very much here now. He will be called upon over and over again to defend this bill. He announced the other day, as I understood him, that he was ready to defend it here and now and not wait to hire a hall on some other occasion.

Mr. President, he will not only have to defend this provision, but he has stated here that his object was to make this bill equal, that if you are going to tax incomes you must tax all incomes. He said that a few moments ago; and yet by his vote and the votes of the gentlemen associated with him he deliberately made an exemption of $4,000 in this very bill whereby citizens worth from sixty to one hundred thousand dollars are exempt from the provisions of the bill, and yet he is going before the people to tell them he has endeavored to make an equal and exact bill to all the people, and all the incomes of the country are taxed or none at all. It will be harder work for him to defend that exemption than to defend the necessary and reasonable one which I have offered.

The Senator slurs State rights, as I understand him from his argument. He says he is as good a State-right man as anyone else. The test as to whether a man is a friend of State rights depends not upon his assertions, but upon his votes. Here is the question presented. It never can be presented plainer or in a more direct way than here and now. We are legislating in a Federal legislature upon the subject of Federal taxation. We have already recognized the fact that under the Constitution or the law, one or the other, all governmental bonds are exempt. This gives a value, as I said, to national securities; and I turn around and simply ask you to give the same privilege, the same exemption, the same right to our State securities, and then Senators who vote against it talk to me about State rights.

Mr. President, State rights are sacrificed by defeating this amendment. State rights are surrendered by the very vote that has been given. Sir, I think Senators would do better in the preservation of State rights by voting for this amendment.

There is nothing in this question to get excited about. The Senator, I believe, says that he thinks that I may possibly be sincere in offering this amendment. Thanks for that admission. He did not hardly mean that. He may take that back. Mr. President, it matters not what my motive may be. My motives are to be judged by the propositions that I make here. On that very proposition, notwithstanding the crack of the whip of the Senator from Missouri, Senators who sat right near him, just as earnest friends of the bill as he is, voted with me. Why? Because the proposition commended itself to their honest judgment. That is the reason why they voted for it, not because they have any sympathy for me in this fight that I am making against this provision of the bill. I care not whether they agree with me or not. The question is not what my motives are or what are anybody's motives. The question is, is this amendment a sound one; is it a just one; can it be defended; does it make the bill better or worse? That is the question, and personalities should be avoided as far as possible in the discussion of a neat, clean, legal question and a question of propriety of legislation.

Mr. President, if Senators would vote upon this question according to their judgment, it strikes me that this would be granted. I concede that exemptions should be few and far between; but States have some rights, especially when you have provided certain exemptions for national securities. Is it any more than right that we ask the same exemption for State securities? Does not that place them both upon an equality? Can we not tell our constituents that fact and impress it upon them? There will be no difficulty about it. If this amendment shall be adopted it can be easily defended in Missouri, or in any other State of the Union. It can be defended anywhere, because it is a proper exemption.

The Senator says he regrets that national bonds were ever exempted from taxation. It originally started during the war. It was one of the things that seemed to be regarded as necessary to be done. There may or may not have been a necessity for it in 1870, when the refunding acts were passed, but when my attention was called to the fact that it not only exempted the bonds themselves, but the interest, I waived the amendment on that point.

The Senator was so zealous in behalf of the National Government against State rights that he was entirely willing to argue that if the bonds themselves were exempted and there was no express provision for the exemption of interest, still, nevertheless, the interest ought to be exempted, I suppose upon the principle that the tail ought to go with the hide, if upon no other doctrine. I stood here to say that if there was simply an exemption of bonds *per se* and nothing else we might tax the income. I anticipated this point that was coming, and I wanted to see what could be said upon the other side.

Mr. President, it strikes me there is no answer to the proposition, and the simple fact that we ought to keep this bill as free from exemptions as possible is no answer to it, because the amendment I have offered stands upon a better and broader basis than any other amendment that can be suggested.

I am opposed to the income feature of the bill. I desire to see that feature of the bill eliminated. I am pursuing, as I think, a proper and honorable course to amend the bill by striking out provisions which I think will make the bill better. These amendments are to be judged upon their merits and not upon the question as to who offers them. This is all I have to say upon the question.

Mr. HOAR. I hope the Senator from Missouri and all Senators on the other side of the Chamber, without regard to the general desirableness of keeping the bill without amendment, will allow the pending amendment to be adopted. I desire to make a suggestion on which I should like to have the consideration of the Senator from Missouri. I think the Senator from Missouri will see that this is going to be a very serious matter for the new States—States that are having, as they come into the Union, great expenditures—and for the old States, who are now struggling to refund their State debts on better terms. Some of them may have been unable to keep their interest paid, and others have been at great labor to keep their interest paid.

This income tax policy, since the policy was abolished after the war, is a novel one. It is a policy which we never have established as a permanent policy in this country. Whether it is going to be extended and enlarged after the trial which the bill proposes, or whether it is going to be popular and satisfactory, no man can tell. Every State which puts a loan upon the market, if the bill passes in its present shape, has to expose that loan to the objection that no man can tell how much of it in the future policies of the Government will be taken away from the creditor by taxation. It will hurt the credit of a new and young State, or of an old State that is trying to reëstablish its credit, as some of our States are, tenfold, twentyfold the good it will be to the Treasury of the United States to have us assert this principle.

Whether we have a constitutional right to do it or not, will not every one of the States gain (and the people of the States and the people of the nation are the same) by the assertion in the matter of ordinary policy in time of peace by the United

States Government of a purpose not to tax State loans? In my opinion, wherever you have uncertainty you have speculation. Wherever you have speculation you have loss of credit. No State can make a loan in the market except of foreign citizens entirely; but, shutting out foreign citizens, if the creditor lends his money to the State of Massachusetts or the State of Missouri or the State of Tennessee on a thirty-years bond, he can not tell whether the United States Government will be coming in to tax the bond 2 per cent, or, if it is found a convenient and agreeable thing to do, 10 per cent or 20 per cent hereafter, and the State has got to suffer by the doubt.

That is the reason why this amendment is urged. It is not for the sake of protecting capitalists, not for the sake of protecting investors. These investments are largely made by savings institutions and banks and such things, where people in moderate circumstances are the persons interested. The amendment is urged for the sake of the credit of the State itself.

Suppose we were to send a foreign loan abroad, or were in a condition where we needed the aid of foreign capital, and we should accompany that loan with an advertisement that the United States reserved to itself the power to put an income tax on the interest in the hands of every holder of the loan? That would cost the United States ten times what it would get. The State loans we hope and believe will be taken up largely by the people of the United States themselves. It has been regarded as a sound, safe investment on very moderate terms. How can you justify the declaration of a policy under which every State loan hereafter proposed is accompanied by the declaration, whatever may be the rate of interest you fix, that the United States Government has asserted its right and its purpose to tax the interest on the loan at its discretion?

Mr. GEORGE. Mr. President——

Mr. HOAR. I will let the constitutional argument all go. I have some doubt about that myself, but I think it is a bad thing to do, and that nothing in our present condition makes this little scrap of a 2 per cent important to the Treasury of the United States in comparison with the great mischief which it is proposed to do. Now I will hear the Senator from Mississippi.

Mr. GEORGE. I desire to ask the Senator from Massachusetts if it is not well settled that so far as the foreign holders of any State securities are concerned, there can be no power in this country to tax them for the income derived from the bonds.

Mr. HOAR. No, sir; it is not.

Mr. GEORGE. In other words, they would be taxable within their own countries for the income which they would receive from the bonds, and they would not be taxable by this country on account of any income which they might derive from the bonds. Is not that well settled law?

Mr. HOAR. I see the point the Senator makes. It is not well settled that there is no power in this country. We have the constitutional power to levy this tax. We can make it effective by compelling the treasurers of the States to withhold it. But I have carefully avoided that point.

I put that merely as an illustration. I said if you went abroad with a national loan and advertised to the lender that we were proposing to put an income tax upon the interest it would destroy the loan or make it a mere speculative loan; that we hope and expect that our State loans will be taken up by the American people at home and not go abroad; that this argument would not apply to foreigners, but that it would have precisely the same effect on State credit if the State of Alabama proposes a loan on the 1st day of next January she will have to pay four times over in her rate of interest the amount which will be received by the United States Treasury under this provision, because the United States has asserted the policy of taxing the interest on State debts, and nobody can tell, the policy being asserted, how far the Government will incline to go in the future.

So, if Alabama advertises a State thirty-year loan, or Massachusetts, or any other State, a loan which she could get at 3 per cent, or at 4 per cent, or at 5 per cent, she would have to pay an additional 1 per cent or an additional half per cent because of the assertion of this power. It is not the amount of the tax; it is the amount of the possibility of the tax for which she will have to pay; and if we do not enlarge the provision the result will be that the creditor, the speculator, the purseproud and wicked men who dwell somewhere in the neighborhood of Labrador, or in that direction, and who are perpetually plundering the good men of Missouri and Alabama and the new Western States out of their hard earnings will make the profit, and the Government will not benefit by it, the borrowing States will not benefit by it, the people will not benefit by it. By asserting this policy you are putting an element of speculation and uncertainty and doubt into every State's hope of borrowing money.

Mr. MORGAN. Mr. President, the Senator with whom I am paired is absent this morning and I have not the opportunity by my vote of expressing my opinion on this question; I feel compelled by a conscientious conviction of duty to oppose the exercise by the Government of the United States of any power of taxation over the property of any State, or the governmental facilities of any State. I do that upon grounds which I understand involve the question of the constitutional authority of the Government of the United States and the States respectively, and of their proper balance in our system of government.

When the Senator from Missouri was discussing the question of the exemption of incomes derived from the bonds of the United States he took the ground, which is entirely just and correct, that we had entered into an engagement with the bondholders at the time of the issue of the bonds that we would not tax them, and therefore it would be a breach of public faith now to tax those bonds either directly or indirectly.

However, I think the constitutional power of the Government of the United States to tax its own bonds was not brought into question, or if it was I suppose that there are very few who would be disposed to doubt that it has the power. But the question in our form of government is entirely a different one when we come to consider whether the Government of the United States has the power to tax the bonds of a State.

The State governments are given a sovereignty within the constitutional limits prescribed to them by the Government of the United States, which for a great many purposes are paramount to that of the sovereignty of the United States Government. I said the States were given a sovereignty. I should have said that they possess a sovereignty which has never been taken away from them; which is reserved to them for the purpose of executing the powers and functions of local government. If we break down the powers of the State governments to administer their proper functions in local government we simply destroy the fabric of this Union, and we do it at a single blow.

There is nothing wanting after you have passed the bill in the form in which it is presented now to the Senate to make a perfect merger of all State power, influence, and authority into the powers of the Government of the United States; for if the Government of the United States can prevent the States from borrowing money to carry on their legitimate functions, then it is useless to say that the States are not completely within the legislative authority of the Government for any and every purpose that the Government sees proper to exercise that authority to promote.

I therefore feel constrained by my duty to my own convictions and to the Constitution of the United States and the sovereignty of the States, particularly the State that I have the honor to represent with my colleague here, to protest against this invasion of the rights of Alabama. I do it with as much solemnity, with as much feeling, with as deep-seated an interest as if a bill were now pending here to tax the Statehouse in Montgomery, or to tax the public bridges, ferries, roads, or any other property owned by the State of Alabama and from which it derives revenue.

It is a power that is beyond the reach of Congress. Congress is excluded from that power over the States if it is excluded from any power whatever. You could not touch the States in a more vital point. You might just as well take the annual tax lists of the State of Alabama and confiscate them for the purposes of the Federal Government as to take her power to issue bonds upon her credit and to raise money for carrying on her government.

I will illustrate this point. At the close of the civil war Alabama owed about four and a half million dollars, payable in London and Liverpool, upon which she had paid the interest in gold promptly, as it was due and every time it fell due during the whole of the civil war. She had put her gold, which she collected from her people while the war was flagrant, upon the ships, and ran the blockade in order to get an opportunity to pay her debts and save her credit, and she did so. After about four years of Republican administration in Alabama that debt was raised nominally to $32,000,000, not more than 10 per cent of which ever found its way into any public institution of that State.

Alabama was forced to the necessity of making a settlement with her creditors, and under the leadership of George S. Houston, who was then governor and afterwards became a member of this body, she arranged with her creditors for the assumption of a very large portion of the debt thus imposed upon her, at rates of interest which would increase as time elapsed. She commenced with the rate of 2 per cent, which was all that her people could bear in the way of taxation then to meet it. Then she went to 2½, 3, and 4. I think the rate is now 4 per cent, and the bonds of Alabama are now at par and have recently—I do not know how it is to-day—commanded a premium.

That State, by the use of her credit, had the power to relieve herself from a condition which would otherwise have made it necessary for her to have gone into political bankruptcy; that

is to say, into an act of repudiation which would have fastened a stain upon our State that we never would have gotten rid of. Using that power of issuing bonds free from taxation, Federal and State, she induced her creditors to accept the situation, to relieve her from the incubus of a part of her fraudulent debt, and to put herself upon a footing where she could have prosperity, or at least life.

She had life given to her in that way, and it has been followed by a very remarkable, I might almost say a marvelous prosperity. It was solely by the use of that power that Alabama was able to extricate herself from that desperate situation.

Now, if Congress had ever supposed that it possessed and had chosen to exercise the power of taxation upon the credits issued by the State of Alabama, there would have been an end of her prosperity. There would have been an end of her political life. She would have been compelled to go into the grave of bankruptcy, because she could not have had any possible chance of taking a step towards advancement in prosperity.

Under these circumstances, Mr. President, this matter is called to my mind with a great deal of force. The recollection startles and alarms me, and I can not subscribe to the doctrine that the Government of the United States can tax the bonds of Alabama, directly or indirectly, when they are issued as facilities and instrumentalities of the State government of Alabama.

If you can tax them at all you can tax them out of existence, for the Supreme Court has said (and we all know it is true) that there is no limit upon the rate of taxation when Congress has the constitutional power to levy a tax; there is no limitation upon the rate, and nothing would be easier than for an aggressive party in the Congress of the United States to demolish entirely the credit of the States and usurp to itself the entire money credit and power of the Government.

Congress has money power enough, and I do not choose to augment it by my vote, even as a matter of policy; but I solemnly believe that we have no constitutional right to impose this tax upon the bonds of the State of Alabama.

I understand it to be conceded that if you can impose it at all upon the income from the bonds you can equally well impose it upon the bonds. No discrimination can be made as to the exercise of your powers upon the lines as to whether you tax the income or whether you tax the bonds. You can tax the bonds of the State of Alabama 10 per cent; you can tax her credit out of existence; and you deprive her of that power of government which after all is more essential to the preservation of the American Union and the preservation of the just balance of powers between Congress and the States than any other power which you can mention. It is more essential to the Federal Government that it should abstain from the exercise of this power than it is even to the States that they should possess it. The moment that you put the States under surveillance, under subjection to the Federal Government to the extent that the Federal Government may tax out of existence the power of the State to issue bonds to borrow money to carry on its government, that moment, you have subjugated the States, and not only that, but you have exterminated them.

Mr. LINDSAY. Mr. President, it seems to me this discussion rests upon an assumption that the bill contains a provision taxing the securities of a State and of subordinate State municipalities. The bill contains no such provision, and by no rule of constitutional interpretation can it be held to contain any such provision.

Mr. MORGAN. I will say to the Senator from Kentucky that I have not asserted it did. I assumed that it did because it had been argued that way, and I should be very glad to find that it does not.

Mr. LINDSAY. The bill provides in a general way for the taxation of incomes, but it nowhere denominates as a portion of the income to be taxed the interest arising from State bonds, bonds of municipalities, or of cities. There is nothing in the bill that indicates an intention upon the part of the Congress of the United States to tax the State agencies, or the State bonds, or the bonds of any subordinate municipality. There is a rule of universal acceptance in the interpretation of a statute that the general language of the statute is to be read in connection with the constitutional limitations imposed upon the body enacting the statute. The bill contains this exception:

> That nothing herein contained shall apply to States, counties, or municipalities; nor to corporations, companies, or associations organized and conducted solely for charitable, religious, or educational purposes, etc.

The difficulty about excepting in terms the bonds of the State, the bonds of a county, or the bonds of a city grows out of the further rule that whenever you attempt to enumerate the exceptions you are to be taken to intend to include all you do not in terms except. Now, then, if in attempting to enumerate those things which the Constitution of its own force excepts, we fail in the enumeration to include any character of securities that may not be taxed, it will be taken that we intended to violate the Constitution by taxing that particular security.

I take it that the courts will construe this law if passed as it now stands as evidence of an intention on the part of the Congress of the United States to tax such incomes, and such only, as may be constitutionally reached by the powers of taxation residing in the Federal Government; and it is better to let the courts settle this question than by attempting to enumerate fail to include the whole scope of the constitutional limitation and put ourselves in the attitude of intending to do that which we have no constitutional power to do.

Mr. ALLISON. May I call the attention of the Senator from Kentucky to the beginning of section 55? The language is as follows:

> That in estimating the gains, profits, and income of any person there shall be included all income derived from interest upon notes, bonds, and other securities, except such bonds of the United States as are by the law of their issuance exempt from all Federal taxation.

Mr. LINDSAY. That is a proper provision. As explained by the Senator from Alabama, that is exactly proper. We tax all bonds and the incomes from all bonds that we may constitutionally tax, and we except the income upon the bonds of the United States, not because we have not the constitutional power to tax them, but because the bonds contain a pledge upon their face that they will not be taxed by the Government of the United States. So that exception rather strengthens than weakens the position I have taken, that this proposed act is to be read in consonance with the Constitution and subject to its limitations; and the courts are the proper tribunals in which those questions are to be settled.

Mr. MITCHELL of Oregon. May I ask the Senator from Kentucky a question?

Mr. LINDSAY. Certainly.

Mr. MITCHELL of Oregon. Does the Seeator hold that Congress has not the power to impose this proposed tax upon the incomes arising from a State, county, or municipal bond?

Mr. LINDSAY. The inclination of my mind is to agree with the Senator from Alabama. If the clause provided that the incomes upon State bonds or county bonds or municipal bonds should be taxed I would hesitate to vote for the bill without striking out that express provision.

Mr. MITCHELL of Oregon. Now, another question. Inasmuch as the only exception contained in the beginning of this section is "such bonds of the United States as are by the law of their issuance exempt from all Federal taxation," how in the name of sense does the Senator come to the conclusion that there is any exception in favor of State, municipal, or county bonds?

Mr. LINDSAY. Because we might tax the bonds of the United States without violating any provision of the Constitution of the United States.

Mr. MITCHELL of Oregon. That is begging the whole question. That is simply stating that this is a good law, provided it is not unconstitutional. If it is unconstitutional then it does not apply.

Mr. LINDSAY. I do not think the Senator has exactly caught the point that I attempted to state. My point is that whenever there is a constitutional limitation upon the power of taxation there is no necessity for an exception *eo nomine*, as in the case of a State bond, a county bond, or a municipal bond, but where we may lawfully tax the income of a United States bond, in harmony with the provisions of the Constitution of the United States, then it is necessary to except that bond in terms; otherwise we will be taken to have attempted to tax it.

Mr. HOAR. Will the Senator permit me a question? As he stated very frankly in answer to the Senator from Oregon his opinion as concurring with the Senator from Alabama, let me ask the Senator whether he thinks that if we have the constitutional power to tax the income from State bonds, it is a good plan to do it?

Mr. LINDSAY. I am coming to that identical point now. The argument of the Senator from Massachusetts that if the income on State bonds, county bonds, or municipal bonds may be lawfully taxed it would tend to depreciate the value of the bonds, is an argument against any income tax at all, but it is not an argument why the bonds should be excepted from the general scope of taxation upon incomes. If a tax upon the income arising out of a State bond or a county bond will depreciate its market value, so will a tax upon the income from the bond of a private corporation or the bond of an individual depreciate its value. That is a legitimate and, I admit, a plausible argument against the imposition of an income tax; but there is no line of policy clear to me why we shall not tax incomes arising from all securities that may be constitutionally taxed.

Mr. MITCHELL of Oregon. Will the Senator from Kentucky allow me one question further?

Mr. LINDSAY. Certainly.

Mr. MITCHELL of Oregon. If this bill becomes a law just as it stands and the Supreme Court of the United States should ultimately hold that Congress had the power to impose a tax such as is proposed here on incomes arising out of State, county, or municipal bonds, does the Senator admit that this language is broad enough to impose a tax upon those bonds?

Mr. LINDSAY. I admitted that at the outset, and now, speaking to the Senator from Oregon, who favors an income tax, let me ask him, is there any reason why the speculator who receives an income from a State or a county bond should be exempted from a taxation that the speculator has to pay who holds the bonds of a private corporation?

Mr. MITCHELL of Oregon. I think there are very strong reasons arising out of public policy, but in addition to those I think there is no constitutional power to do it.

Mr. LINDSAY. There we agree, and there being no constitutional power to do it, I hold that there is no attempt in this bill to do it, and that is a sufficient answer.

Mr. GRAY. Mr. President, I have arrived at a point in the discussion of this proposed income tax where I find it is impossible to make any compromise with my convictions in regard to the provision under discussion. I may submit my views as to expediency and propriety to the greater wisdom of my fellows, but I can not so submit my views as to the fundamental questions which lie at the very foundation, of the exercise of the taxing power of the Federal Government. In all matters that regard taxation I find it impossible to ignore now, any more than at any other time, the existence of the States.

I believe it is the duty of each one of us intrusted with the high responsibility of legislation to keep in mind at all times our dual scheme of government. We can not lose sight for one moment of the great underlying fact that to the States, of which this Government is in one sense the general agent, belong perhaps the most important and largest function of taxation; that in creating the burdens that taxation always imposes, burdens never to be borne except they are accompanied by a public exigency, the States are in the largest degree interested.

I think it is not to be denied that so far as amounts go by far the largest amount of taxation springs directly from the power and the necessities of the States—State taxation, county taxation, municipal taxation, in their aggregate enormous and exceeding by many millions the aggregate of national taxation. That in the exercise of the legislative power with which we are intrusted and which we are now attempting to exercise we should keep in mind this double source from which the burden of taxation springs seems to me to go without saying.

There is another view to be taken of this question. Undeniably the Federal Government has the right, which it has often exercised, and, I take it, will exercise whenever the exigency arises, of exempting from taxation all the bonds that are issued by its authority. It has been found necessary, in order to market those bonds to the greatest advantage, that that exemption should be created by law. It is true we may either exempt them from taxation or we may impose the taxation, but our discretion is influenced entirely by the advantage accruing to, and the needs of, the Federal Government, and it has been found in the past that it was necessary to create that exemption.

Now, then, the States have found that the necessity of exemption of State credit was also one that was exigent and important to them, and they have exercised it in most cases in so far as to exempt the bonds issued by authority of the State and the interest thereon from taxation by the State. But the State can not exempt the holders of such bonds from taxation by the Federal Government unless the Constitution contemplates that exemption.

Now, without regard to the constitutional question, whether it may be decided one way or the other by the Supreme Court, I hold that it is our duty as legislators of the Federal Government to pay that respect to the autonomy of the States that we find is obliged to be paid to the autonomy of the Federal Government by the States. I do not believe that we should ever in this matter of imposing burdens take such a view of our duty as would permit us to degrade the States to the position of inferiority to which this discrimination would reduce them. I mean of being obliged to submit to Federal taxation upon their power to borrow money, while the Federal Government can take from the States all power to tax the income derived from Federal bonds.

Therefore, I do not think it can ever be for the advantage of the Federal Government to adopt such a course in this matter of taxation as puts the States in a position inferior to the Federal Government, or in one which tends to degrade them in this great dual system of ours.

Mr. PUGH. I fully agree with the Senator from Delaware and with my colleague in reference to this amendment; and I rose simply to suggest to the Senator from Delaware, in the line of his argument and in support of his opinion, that the power of a State to borrow money to carry on its own local government, to meet its own necessities, is a reserved power. It never has been delegated. If the power of taxation has been vested by the States in the Federal Government of what value is the reserved power of the State to borrow money when the States themselves, by delegating the taxing power to the Federal Government, have impaired its value? The Federal Government, by exempting from taxation its own bonds and the income arising from the interest on its bonds, is committed to the proposition. This bill itself recognizes that for this Government to levy a tax upon the interest of these bonds impairs their value as securities; that it impairs their value in the market when the Government undertakes to borrow money on its own credit.

Now, if the State has reserved the right of borrowing money and of issuing bonds to put upon the market to sell to raise money, it is to do it at a rate of interest; and it is the interest of the people of the State to get money at the lowest rate of interest possible. To say that the State in reserving the right to borrow money has parted with the power of protecting itself against the power of the Federal Government to tax the income arising from the interest upon the bonds, renders the power to borrow money utterly nugatory and puts it in the power of the Federal Government to destroy this reserved right of the States.

I agree with my colleague. I look upon the recognition of the exercise of this power as a blow at the credit of the States and the rights of the States from which they could not recover in a century. It would be far better for us not to derive a dollar by levying an income tax rather than have it done by exercising the power of destroying the reserved right of the States to borrow money to carry on their own local government. It centralizes the power of controlling the credit of the States in the Federal Government.

Mr. GRAY. I wish to interrupt the Senator from Alabama for a moment to suggest that in what I have said I have assumed, for the purpose of argument, that the Federal Government has the constitutional right to tax the incomes derived from State bonds or bonds issued under State authority, and that I feel myself even under such a proposition obliged to vote, for the reasons I have given, against the exercise of such a right. But I agree with the Senator from Kentucky, I agree with the Senator from Alabama, that there is no constitutional right to tax the instrumentality of borrowing money so necessary to State autonomy. However, I do not agree with my friend, the Senator from Kentucky, that because I so believe it is unnecessary in this bill to state what we think ought to be exempted from the universality of the language used. The language of the bill taxes incomes from all sources, from all bonds, and from all investments, without exempting or particularizing any.

It is quite true, as the Senator from Kentucky says, that if it be unconstitutional the Supreme Court of the United States will so decide. But whether the Supreme Court should so decide or not, I want to write into this provision my own protest against the constitutionality of such a power. I conceive it to be the duty of legislators here to take their own views of the Constitution of the United States when they are framing legislation and to so construct the bill as that it shall conform to their views on the constitutional question.

Mr. LINDSAY. Will it interrupt the Senator to ask him a question?

The PRESIDING OFFICER (Mr. MARTIN in the chair). Does the Senator from Delaware yield to the Senator from Kentucky?

Mr. GRAY. Certainly.

Mr. LINDSAY. The Senate has voted down the amendment which exempted State, municipal, and county taxation. Now, if the Senate incorporates an exemption of the taxation of State bonds alone, will it not follow as a reasonable interpretation that it did not intend to exempt county and municipal bonds?

Mr. GRAY. It will not, so for as I am concerned; nor do I think it will have any effect upon the Supreme Court of the United States when it comes to pass, if it should come to pass upon the constitutionality of this provision of the bill. But I still believe there is nothing inconsistent with the proper framing of a bill of this kind in exempting these incomes which are derived from a source that are beyond the reach of Federal taxation. I think that ought to be put in, in order that the people of the States need not be embarrassed by the necessity of appealing to the Supreme Court of the United States from the action of the collectors, who would undoubtedly, by the language of the bill, be compelled to put incomes derived from such bonds among the taxable incomes.

Mr. PUGH. I thought I would have nothing to say upon this bill at any stage of its progress, because I consider the time more valuable in voting than to be consumed in speaking. I

rose simply to express my condemnation of this attempt on the part of the Federal Government to levy a tax, an income tax or otherwise, upon the credit of the State and to undertake to distinguish between money in the hands of the holder of a State bond paid to him out of the State treasury on a State bond, and money paid out of the State treasury to the officials of the State.

I can not see any foundation for any such distinction. It is conceded that money in the hands of a State official can not be reached that was paid as his salary out of the State treasury. How is it that you can, by the exercise of the taxing power on the part of the Federal Government, reach the interest payable to the holder of a State bond out of the State treasury?

It is a plain proposition. You can not impair the official agencies of the State indispensable to its own administration by taking away the power or refusing to recognize it; you can not tax the money paid out of the State treasury to the State officials because it would impair that agency. Why is it that if you can reach the interest paid on State bonds to the holders of State bonds out of the State treasury you do not impair the power of borrowing money on the State bonds? It is perfectly preposterous to undertake to assert such a proposition.

Mr. GRAY. May I again interrupt the Senator from Alabama for a moment?

Mr. PUGH. I yield the floor.

Mr. GRAY. I do not want the Senator to yield the floor. I want him to go on with the very excellent argument he is making.

Mr. PUGH. I am through. I have put myself on record, and there I will stand.

Mr. GRAY. It is conceded on all hands that the States are inhibited impliedly from taxing the instrumentalities of the Federal Government in the way of borrowing money, because by so doing they would impair its sovereignty within its appropriate sphere. The State against the will of the Federal Government can not tax the income from a Federal bond. That reason must apply to the State and the State bonds with exactly the same force that it does to the Federal Government.

Mr. ALLEN. I should like to ask the Senator a question at this point. The Senator contends, as I understand him, that the power of the General Government to tax State bonds is questionable, because the power to issue State bonds is a necessary incident of its political existence. In view of the fact that each municipality or county is but a subdivision of the State, and therefore the agency of the State in carrying on the State government, would not the reasoning of the Senator from Delaware apply to municipal and county bonds equally with State bonds?

Mr. GRAY. I think it would, if I may answer frankly. The amendment we are concerned with here is a declaration (I will not say exemption, because if the Constitution exempts it we can not increase that exemption) that we do not intend to include within the catalogue of securities whose income is to be taxed bonds issued directly by the State.

Mr. ALLEN. Then, as I understand the Senator from Delaware, the logic of his argument is that all bonds issued by the State, by counties and municipalities——

Mr. GRAY. By its authority.

Mr. ALLEN. Or by its authority, by any subdivision, would also be exempt from taxation by the Federal Government, and that would eliminate every bond issued in the United States by authority. Now, let me make this suggestion——

Mr. GRAY. Let me just state my position. I said the inclination of my mind is to answer the Senator affirmatively to include all bonds issued by authority of the State. I can not say that I am exactly as clear upon that point as I am as to bonds directly issued for State purpose and in order to carry out and execute the functions of State government.

Mr. ALLEN. I wish to suggest to the Senator from Delaware that the States tax the bonds of counties, municipalities, townships, etc. It is not held by the State courts that that is any impairment of the power of the State to issue bonds through one of its instrumentalities or any impairment of the statutory right of one of the municipal corporations to issue bonds.

I desire to suggest to the Senator from Delaware this thought, that a Federal tax upon a State bond in the hand of the holder of that bond does not in any manner impair the power or the sovereignty of the State to issue bonds, and it does not in the slightest impair it any more than the tax of the State upon the bond that is issued by the country or municipality. When the bond of the State is issued and placed in the hand of the purchaser, it is private property from that time on, and the tax rests upon the holder of the bond, and in no manner impairs the power or the sovereignty of the State to issue the bond.

Mr. CAFFERY. I desire to ask the Senator from Nebraska whether or not, if a State has the power to issue a bond, it is not for the purpose of that bond being sold and being taken up by private parties or corporations, as the case may be, and whether or not, if you tax the holder of that bond, you are not impairing the State security just to the amount of the tax?

Mr. ALLEN. I do not think so at all. I think the same logic that is used by the Senator from Louisiana would apply to every promissory note, every mortgage, and every form of contract issued by a private individual. I think that it does not impair the power or the sovereignty of the State that issues the bond any more than it impairs the ability of the individual to issue his promissory note or his mortgage.

I was going to say—and that is all I want to say—it strikes me that the income tax as it now exists in this bill is impaired so that there is practically nothing to it. Everything has been exempted that could possibly be exempted upon any conceivable theory, and it is a mere eggshell to-day, without any meat in it. Here is an attempt to exempt from the income tax millions of dollars of State obligations and bonds which are held by the people of this country, and possibly by nonresidents. The income tax as originally framed could not be recognized by its author as it now exists in this bill.

Mr. CAFFERY. I understood from the statement made by the Senator from Delaware [Mr. GRAY] that the amendment offered by the Senator from New York [Mr. HILL] to exempt from the income tax municipal and county bonds and bonds of the States was voted down. I was not in the Chamber at that period, and being paired with the Senator from Montana [Mr. POWER] I could not vote upon it if here.

I desire to say, Mr. President, that I have heard no satisfactory answer no answer which to my mind brings any kind of conviction, to the interrogatory propounded by the Senator from Massachusetts [Mr. HOAR], whether, if the Federal power of taxation could not extend to the salaries of officials of a State, it could extend to the bonds of a State. There has no answer been given, and, in my opinion, none can be given to that interrogatory. There is much more reason why the United States can not tax or should not tax State agencies, particularly those agencies which raise revenue for the State, than that the United States can not tax salaries of State officials. There has no sufficient answer been given to that question and none, in my opinion, can be given to it.

What, Mr. President, is the purpose of the State issuing a bond? It is for the purpose of raising revenue and other matters of public moment; and a vital part of the sovereignty of the State would be attacked by any tax upon its power to raise revenue.

There is no sort of similarity between the power of the Federal Government to tax a State bond and the case presented by the Senator from Nebraska [Mr. ALLEN] as to the power of the Federal Government to tax the promissory note of the individual. It is all important to maintain in perfect integrity the power of the State government to carry on its fiscal operations. There lies the very essence of its sovereignty. If you destroy in any particular the power of the State to raise revenue, you strike a death blow at its sovereignty, for that sovereignty can only be maintained and the State government can only be run by the power of taxation.

In my State there was a legacy of a very considerable debt left from the reconstruction period. That debt has been funded into consolidated bonds, and by a wise and judicious management of State finances those bonds are now nearly at par. From about 47½ per cent, they have gone up to nearly 100 in the last *fifteen* years.

Our State has to provide against the annual overflow of the Mississippi River. The State has been divided into levee districts; they are subordinate municipal corporations of the State, and there have been transferred to them, in very large measure, all lands belonging to the State under the swamp land acts of 1849 and 1850. These levee districts have raised money by issuing bonds predicated upon a mortgage of these State lands thus donated to them. If this bill, with this particular *feature passes*, a very serious blow will be struck at the power of that State to prevent the annual overflow of the Mississippi River, to the great destruction of our people.

I think the constitutional point is well taken. If you can tax the instrumentalities of the State, particularly in this vital matter of raising revenue, you can destroy the State. There is no answer to that; there can be none. The constitutional barrier presents itself as an insuperable obstacle to the validity of this proposed income tax on State bonds.

Mr. President, I am told by the Senator from Kentucky that wherever there is a constitutional limitation, the words of the statute must be considered with reference to that limitation, but I will call his attention to the fact that this bill has very carefully excluded United States bonds from its operations, and another principle of construction will come in; that the exclusion of United States bonds is pregnant with the affirmative that all other bonds are included.

Mr. LINDSAY. I ask the Senator if in his opinion United States bonds may not be constitutionally taxed?

Mr. CAFFERY. By the United States Government; not by the State governments.

Mr. LINDSAY. That is, the bonds would be taxed if we had not been excluded from this bill?

Mr. CAFFERY. But the exclusion is in general terms. There is a general wording of the statute that embraces all bonds.

Mr. LINDSAY. All United States bonds.

Mr. CAFFERY. Here is a special exclusion, a special exemption, and the general rule of construction will apply, that everything not exempted is included. The tax collectors of the States will not pay particular attention to these constitutional objections, but as the Senator from Delaware [Mr. GRAY] well remarked, here is the place to settle this constitutional question, and not in the Supreme Court. Why embarass the Supreme Court with a question which the Senate of the United States can as well decide for itself here and now?

I shall be constrained, with my view of the unconstitutionality of this income tax on State bonds, to vote for the amendment proposed by the Senator from New York.

Mr. HOAR. I wish to say a word only in reply to the Senator from Kentucky [Mr. LINDSAY]. The Senator says that conceding that it would be unconstitutional to tax the bonds of the State, still we may make a general phrase, and leave it to the courts hereafter to settle.

Mr. President, I think that experienced Senator will not himself adhere to that argument. If it were true in any other kind of legislation, how is it possible that any careful lawmaker can act on that principle in a tax bill? A tax bill has to be carried into effect by hundreds of local officers all over the country, assessors formerly, and now collectors, and probably we shall require the United States assessor again before we get through with it.

The bill is to be carried out, first, by the assessment, then by the demand, and then, if the tax is not paid, by a distraint. The collector is to enter the household of the citizen, of the widow, or the unmarried woman, if she is a housekeeper, or a poor man or a rich man, or the man who lives 250 miles away from the United States court in the vast spaces of some of our Western States, and, according to the Senator from Kentucky, it is gravely proposed that, in regard to this question about which the Senate of the United States is pretty nearly evenly divided, whether this tax on State bonds or municipal, or town, or county indebtedness is constitutional, this law is to be enforced in the several districts, in the first instance, according to the opinion of the tax collector. So that in Western Missouri, or in Eastern Oregon, or in Southern Arkansas, anybody who happens to have a bond of this class is to be taxed for it according to the constitutional opinion of the local collector, and to have his household furniture seized in order to collect the tax, with a remedy to go by appeal if he chooses, by a series of suits to the Supreme Court of the United States, according to the opinion of the local officer on the constitutional question, in regard to which constitutional lawyers, like the Senator from Delaware and the Senator from Alabama on one side and the Senator from Missouri on the other, are divided. It does not strike me that that is sound policy in legislation. I think we should be derelict to our constitutional duty if we were to let loose on the country a law of that kind.

In the next place, I do not think this is a question for the Supreme Court of the United States, still less for the tax collector. I do not mean, of course, to say or to expose myself to the suggestion that I do not think we should bow to the Supreme Court if it should hold this tax to be unconstitutional; but if the nine gentlemen who sit, with so much honor to themselves and to the country, in that illustrious tribunal happen to think an affirmative exercise constitutional, which I believe unconstitutional, I think the State of Kentucky is the last place in this country from which the suggestion would come that I am bound to yield my opinion to them. We are bound to write in this tax law all such constitutional limitations as may seem in our judgment, as constitutional lawyers, to be sound and to be requisite.

The other suggestion of the Senator from Kentucky [Mr. LINDSAY]—for he contributed two to this argument—that when it is suggested that by this action you are to impair the credit in the market of every State in this country, you are going to do what was so well illustrated by the Senator from Louisiana [Mr. CAFFERY] in regard to his own State. The Senator from Kentucky said that is no more than you would do if you would put an income tax on any private contract. The answer to that seems to me to be one which can be made in a sentence. The whole private property of the citizen, with the exception of a few narrow constitutional limitations, is primarily at the service of the Government.

The preservation of the country is the supreme law; it is the bottom mortgage; it is the first and most sacred obligation, and therefore, of course, every private contract in this country must be subject to the supreme necessities of the State. The preservation of the State within its constitutional limits and for its constitutional functions is the supreme obligation, and therefore it is an essentially different thing to make a State contract uncertain in the matter of speculation, and so impair its value, the value of the public credit, upon which everything else in a time of danger is dependent, and to exercise the authority of the Government over private property, whether it depends on a private contract or whether it is property personal or real in the ordinary sense.

Mr. HAWLEY. Mr. President, I think it a wasteful process to tax State bonds either by an definite tax, and it is an equally wasteful thing to have it well understood by declaration, or by inevitable inference, that we have a right to tax them and are liable to tax them at any time. There is no financial benefit in it, but there is an injury. If a State desires to borrow money and publishes the fact that it will issue ten-year bonds at 3 per cent interest, the elements of the problem are very certain. The elements, excepting the condition of the public credit and business, are fixed.

The State knows precisely what it can do, and the bankers will bid with this knowledge; but if the Government puts a tax of a quarter of a cent upon those bonds, and it is understood and established that it will always be one-quarter of a cent, the States will lose something, to be sure; but they could borrow with some fixity and some certainty; but if a 3 per cent bond is issued, with the liability of having a mill or a quarter of a cent taken out of it, the bankers will take out more than a proportionate sum from their bid because of this uncertain element which enters into the contract.

So that you or the State will certainly lose by it; the upshot of it between the State and the General Government is a loss; a greater tax will come later on, and, instead of getting the bankers to bid 100 for a hundred-dollar bond, with this uncertainty of taxing the bonds hanging over them, they will not be likely to give over 96, for they will say "we do not know what Congress will do;" and there is where they are right. The tax may be a mill or 2 mills, or, if the Government is in great need, a quarter of a cent or half a cent. In fact, it is to a certain percentage a destruction of the State's right to borrow money. Leaving the constitutional question entirely out, and taking the pure financial question, you are wasting money by this proposition.

Mr. MITCHELL of Oregon. In some remarks I made this morning I referred to the Kentucky case, and I think I stated the decision of the Supreme Court in that case. The principle that was adopted subsequently by Congress was applied first in what is known as the Baltimore case—the United States *vs.* The Railroad Company, (17 Wallace, 322). That was a case where the city of Baltimore had subscribed for $5,000,000 of bonds of the Baltimore and Ohio Railroad Company, and the tax provided for by the internal-revenue act of 1864 was imposed upon the company. The company declined to pay, on the ground that it was a tax upon an integral part of the sovereignty of the State, namely the city of Baltimore.

The Supreme Court in that case held the contention to be good. Subsequently, in the case of Stockdale *vs.* Insurance Company, in 20 Wallace, 330, the same principle was recognized and adopted. Then the Congress of the United States, in the Fifty-second Congress, refunded to certain counties in Kentucky, to the city of Louisville in that State, and to the State of Tennessee taxes which they had paid, the refund by Congress being based upon the two cases to which I referred.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from New York [Mr. HILL].

Mr. HILL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GEORGE. Mr. President, I have some difficulty about this case, and I want to submit to the constitutional lawyers in this body a question, and especially do I desire to call the attention of the Senator from Delaware [Mr. GRAY] to a difficulty which I have, and I hope he may be able to remove it.

It seems to me, Mr. President—I may be mistaken about it—that a fundamental fallacy underlies all the arguments which I have heard here this morning urged against the constitutionality of the income tax so far as any part of that income might come from the interest upon State bonds. The case has been argued as if the proposition were to tax the State bonds *eo nomine* as so much property; as if this were an excise tax levied under the Constitution, under which the bonds issued by States are made subject to taxation for the benefit of the Federal Government. If that were the question before the Senate, it would be a very different one from the one really before it. If I am not

mistaken—I call the attention of the Senator from Delaware to that point—there is a vast difference, as it appears to me, between taxing incomes derivable from a nontaxable thing, and a tax upon the thing itself.

Under the Federal Constitution real estate or land can not be taxed except by the rule of apportionment, there being two rules for the levy of internal taxes under the Constitution, one the rule of apportionment, and the other the rule of uniformity. It was argued by the Senator from Massachusetts [Mr. HOAR] with some plausibility—but I think the Senate decided against him by a very large majority—that that provision of this income-tax law which taxes as incomes the rent coming from real estate was unconstitutional, because it was in effect taxing real estate, and real estate or land could only be taxed by the rule of apportionment, and this tax is by the rule of uniformity.

I should like to call the attention of the Senator from Delaware to that, and ask him if the Senate decided right then, if that decision can be maintained upon any other ground than that there is substantially and really, as matter of constitutional law, a difference between taxing a thing which the Constitution prohibits to be taxed and taxing the income of an individual, and including within that income the proceeds of the nontaxable property. That now is the position which Senators must take in order to make a good ground against the constitutionality of this income tax.

I want to call the attention of the Senator from Delaware and the attention of other Senators to some other troubles we shall have if we forget the plain and, as I think, the manifest constitutional distinction between a thing and that which might by some use of the thing produce an income. The Constitution of the United States prohibits the imposition of a tax upon exports. Is it now to be provided in this bill that any income derived by an exporter from dealing in exports is also to be exempt? The Constitution of the United States prohibits States—I mention that simply as an analogous argument—from taxing imports as well as exports. Is it to be argued that a State may not levy these taxes and impose an income tax upon an importer or include within the taxes which it imposes upon one of its citizens an income derived from imposts?

I present this to show that there must be a very plain and fundamental distinction between taxing a nontaxable thing under the Constitution and taxing the income of an individual, and including within it not the nontaxable thing, but some income or profit which might come from the use of this nontaxable thing.

Here is another trouble to which I desire to call the attention of the Senate.

Mr. GRAY. Will the Senator allow me, right there?

Mr. GEORGE. Let me get through. I shall only occupy a few moments.

Mr. GRAY. Allow me to suggest to the Senator, so that he may have it before him, what my distinction would be.

Mr. GEORGE. Very well.

Mr. GRAY. I submit to him, with great deference, as I always do when I differ with the Senator on a matter of constitutional or other law, that the reason why the State can not tax an import is because there is an express prohibition in the Constitution of the United States upon the States doing that thing.

Mr. GEORGE. I agree to that.

Mr. GRAY. But for that express inhibition, imports, like all other property, would be within the domain of State taxation. But the reason why, as I conceive, that a State should not tax either the bond or the income from a bond of the United States, does not rest upon any express inhibition, for there is none; but because both the bond and the interest paid upon it are an exercise of the essentially inherent sovereignty of the Government that does issue the bond.

So of the State. Its sovereignty within its appropriate sphere is complete. The reason why the power of the State to borrow money should not be impaired by the taxing power of the United States is not on account of any express inhibition in the Constitution of the United States, for there is none; but because in our scheme of government it has been deemed essential that neither the General Government on the one hand or the State government on the other should interfere with or should be conceived as having the power to interfere with those essential instrumentalities of government of either.

Mr. GEORGE. Mr. President, there is a very easy answer to the argument of the Senator from Delaware. There can be no more force in an implied prohibition in the Constitution than there is in an express prohibition in the Constitution. The question in either case is not how the thing is unconstitutional, but whether the thing itself be constitutional or not. So the Senator makes nothing, I humbly conceive, in drawing a distinction between an express prohibition in the Constitution of the United States against taxation and an implied prohibition in the Constitution, because in both the utmost force and effect which can be attributed to them means simply prohibition and no more.

Lest the Senator might think he was not sufficiently answered by reason of his allegation that the nontaxability of an income derived from State bonds comes from the fact that, if that were allowable, it would put it in the power of another agency, another sovereignty, to destroy or impair the operations of the State government. Am I correct in so translating the Senator's views?

If that be so, then would it not be the most singular thing that we should have forty-four States united under a common Constitution, and that each one of those forty-four States should have the power to tax these instrumentalities of its co-States and thereby destroy them?

If the Senator contends that it would, I ask him this question: Will he contend that the interest on a bond issued by the State of Louisiana, and held by a citizen of the State of Mississippi, could not be taxed in the State of Mississippi by her Legislature, in the possession of one of her own citizens, for the purpose of raising revenue?

Mr. GRAY. It can not be done. Let me say a word further, that the Senator may understand the position I take. The State of Louisiana, it is true, can not prevent the State of Mississippi from taxing the income of a citizen of Mississippi derived from a bond of the State of Louisiana. That is because there is no extra-territorial jurisdiction of the State; but the State of Mississippi can protect its own sovereignty within its own limits as to the conduct and obligation of its own citizens within its own borders, and when it permits those bonds to be taxed the power of the State goes with it, and therefore that does not interfere with the free agency of the State.

Mr. GEORGE. The Senator has unwittingly, forced by the circumstances of his argument, thrown away his whole case by the illustration. On what are we proceeding? We are proceeding, as the Senator himself admits, on an implied prohibition contained in the Constitution of the United States to tax incomes. That is his argument. His last position is that the Constitution of the United States can not protect a citizen of Mississippi against an unjust taxation imposed by the State of Louisiana, unless the State of Mississippi should interpose directly to do it? That surrenders the whole case. If it is unconstitutional to make that taxation, that is, unconstitutional as being a violation of the Constitution of the United States, it requires no interposition of the State in which the taxed man resides. He can go to any Federal court and have it enjoined.

Mr. President, I had these difficulties. I have listened with great attention to the very learned arguments made by Senators, and when I asked them to explain the ablest one among them—no; I shall not say that——

Mr. GRAY. That would be saying a great deal.

Mr. GEORGE. But I shall say a clear-headed constitutional lawyer undertakes to remove my first trouble by a distinction which never before, I suppose, existed in the mind of a constitutional lawyer, and could only have existed in his by being forced into it by the stress of his position, that there is a distinction between an express prohibition of the Constitution of the United States and an implied prohibition.

There is none. If a thing be unconstitutional and in violation of the Constitution of the United States, it is just as bad whether it comes from an express prohibition or from an implied prohibition. The only difference is that the man who argues in favor of the unconstitutionality of a certain provision has an easier task to perform to prove his proposition when he can put his finger upon an express prohibition. That is all. The Constitution is just as vigorous, just as efficient, just as strong to throw down and tear down and beat down everything which is in contravention of it, whether that thing be in contravention of an express prohibition or of an implied prohibition. It is all the same.

Here is another thing I should like the Senator from Delaware to explain. When this $500, or any other sum which comes to a taxpayer by reason of a payment to him of a debt due by the government of a State or the Government of the United States, when does that money cease to be interest?

Mr. GRAY. I refer the Senator to the case of Brown against the State of Maryland.

Mr. GEORGE. The Senator calls my attention to a case which I had in mind, of Brown against the State of Maryland. There the court held—without going into the specific details of the opinion—that when the thing ceased to be an import, it became taxable. So when this debt due by the Government ceased to be a debt, it became taxable. Is there any answer to that?

Mr. GRAY. I want to ask the Senator when the salary of a

State judge ceases to be a part of the treasury of the State, an instrumentality of the State, and becomes a part of the common property of the judge?

Mr. GEORGE. I shall answer that when I reach that point in the discussion. I am talking now about income. The Senator must remember that an income is something which comes to the man who owns it; it is his property; it is his income, let it come from what source it may. Can it be said that after the interest has been paid to the creditor that there is any debt then left?

By the way, Mr. President, if you look at the nontaxability of the Federal bonds, the argument goes upon the idea that you can not tax a debt due by the United States. It is the obligation that you can not tax. When the interest has accrued and been paid over, the debt is extinguished. What interest——

Mr. HILL. Will the Senator allow me?

Mr. GEORGE. Not now.

What interest has any human being, other than the person to whom the interest has been paid, in that particular money? Money has no ear-marks, Mr. President. A dollar is a dollar. You can not distinguish one from another. Will the Senator from Delaware or any other Senator say that the payment of the interest, when it goes into the man's general fund, still carries with it a sanctity of constitutional law which prohibits it from being taxed? Will they please note the time when it loses that sanctity? When does it end? If he mingles it with his other funds, as everybody else does, or if he deposits it in a bank to his general account with his other funds, has it then lost its identity, or will he have, in order to preserve the specific identity of the very dollars which have upon them the sacred baptism of having been paid by the Government of the United States as interest on his bond, to keep them all separate and apart?

I want the Senator to explain that. How does it happen that this money thus paid becomes liable to taxation? Will the Senator say when he parts with it to somebody else? That is a very curious kind of sanctity, an exemption to a dollar that happens to have the honor of having been paid by the Treasurer of the United States to a debtor of the United States, and that shall be all banished the very first moment that the man who got the money should see proper to use it.

The Senator from Delaware forgets, and all the Senators who adopt the same view forget, that money is worthless to a man until he parts with it. That is one of the singular things about money. So long as a man will not part with it, it is of no value to him. Then, I suppose, according to the argument of the Senators, that as long as a man keeps it as his own you can not tax it, but just the moment he undertakes to make it of some value to himself then it becomes taxable.

Mr. MITCHELL of Oregon. May I ask the Senator a question?

Mr. GEORGE. Not now.

That is the argument, that is the position to which Senators are driven who maintain the proposition which I humbly conceive—and I speak of it with some little diffidence, as I have not perhaps given this matter the study I should like to have given it, as I did not know it was coming up—but that is the position, I will not say the absurdity, but the inconsistency to which they are driven, unless they have a better explanation for it than they have given for it here to-day.

Mr. President, the Senator says the power to tax incomes is going to ruin the credit of the States; and the Senator from Alabama and the Senator from Louisiana seemed to think that if the world did not come to an end just the very day the tax was levied, certainly constitutional liberty would expire at that time, and we should have no more of the old system of constitutional government in this country.

Let us get out of all of that fine talk and come down to the very thing in the bill. Let us see what it is. A tax of 2 per cent upon an income, that is $2 in the hundred on the income—not $2 in the hundred on the principal which produces the income. That principal probably produces a hundred dollars at the rate of 3 per cent interest.

Have Senators considered how much a tax of 2 per cent upon the income of a bond-bearing 3 per cent interest would decrease the value of that bond? It is infinitesimal; I can not make the calculation. I believe some Senator said—I forget who it was—that if this thing were done bonds would go down and interest would go up to 10 or 12 per cent. If that is so, it is not because that is the legitimate logical result of this legislation, but it is because the men who deal in bonds speculate upon the misfortunes of their fellow-citizens. I say if this be so, it is because that class of men, without justification in the business aspect of the case, undertake to tax by increased interest the people of the United States, to punish them for an attempt on their part to levy a legitimate tax upon them.

Mr. President, I am not in favor of yielding to that kind of a menace. The Senator from Missouri [Mr. VEST] said a very true thing when he addressed the Senate upon this subject; that is, in all the exemption from taxation in the United States, the most unjustifiable was the exemption of bonds held by that class of men from taxation.

If they want to punish the people of this country by levying a tax which does not amount to prohibition as much as one-tenth of 1 per cent interest, by charging 4 or 5 per cent additional interest, all I have to say to them is, let them come and we shall try them on that. If they propose to raid the American people for the exercise of a common, fair, just right by extortion and pillage, we shall find some means of counteracting them.

So, Mr. President, to conclude the whole thing, to sum it all up, here is a Government tax to be levied for the support of the Government. I have a right to say that. We believe it is so, and Senators who argue for this exemption have no right to dispute that proposition. We decide that it is right and just and make this levy.

Sir, who are to be exempted? That class of our people who, of all others, ought to pay taxes. Those are all. I do not want to say anything to excite prejudice against bondholders, against millionaires, against rich people. That is a very cheap line of demagogy. I think a man has a right to fair and equal protection, whether he be worth a million dollars or whether he be worth $10; but I do not think he has any right to any more protection. I think a man who has made his million dollars by fair and honest and legitimate work is as much entitled to protection as a man who has made $10 by legitimate work; but he has not any more. If the humble are to be taxed for Federal purposes, as they are in the tax on consumption in all that they eat, in all that they wear, in all that they consume, it does seem to me, Mr. President, that the wealthy people of this country ought not to stand before the American people and claim an exemption from a tax so light as this.

That kind of claiming of exemption, that kind of claiming of special privileges, is the very thing which in these times men of wealth ought to avoid. If they will not avoid it upon a principle of honor, of decency, and of right, they ought to avoid it upon the more ignoble and selfish principle of self-preservation. That kind of claim has produced and is producing a prejudice against wealth and wealthy men which may, I fear, end in some attack upon the right of private property itself.

Mr. HILL. I desire to ask the Senator from Mississippi a question. I suppose he will answer me now.

Mr. GEORGE. I will answer any question I can.

Mr. HILL. I understood the Senator to say—I do not wish to misrepresent him—that in case Government bonds were exempted and nothing said about it, we should probably tax the interest?

Mr. GEORGE. That is my opinion, and I understood it to be the opinion of the Senator himself on last Saturday.

Mr. HILL. I suggested that point, but I call attention to the fact that I was antagonized in that very strongly by the distinguished Senator from Missouri, who held that that was rank repudiation.

Mr. GEORGE. Let me make a statement right there. The Senator said that when the bond itself was exempted the interest also was exempted.

Mr. HILL. Did I say that?

Mr. GEORGE. Is that the question put to me?

Mr. HILL. Yes.

Mr. GEORGE. I answer that in this way: The unpaid part which still remains a debt due by the Government to the holder of the bond stands on the same footing as the bond itself. As soon as the interest is paid the Government is no longer debtor and the money becomes the property of the individual. Then I think the rule is different.

Mr. HOAR. I desire to ask the Senator from Mississippi, when he gets through, whether he has made or does make in his own mind any distinction between the case of Buffington and Day, the case of the salary and the case of the interest received on Government bonds as an income. I do not know but that the Senator has spoken of this point when I was out of the Chamber.

Mr. GEORGE. I have not spoken of it.

Mr. HOAR. I should like to hear the Senator on that point.

Mr. GEORGE. I do not like to talk on that subject because it is not before the Senate. Whenever there is a proposition before the Senate to tax the salaries of State officers, then I shall answer the Senator's question. I do not care to discuss it now. I am glad the Senator from Tennessee is not here, for I should feel as if I were incurring his everlasting hostility if I were to discuss a pure abstract question now. I shall not do it.

Mr. HOAR. If the Senator from Mississippi will pardon me—he is a great constitutional lawyer, as we all know; he has been

a great chief justice of one of the States—I will state that I think that in the case of Buffington and Day——

Mr. GEORGE. Whether great or small, I have the right and the power of expressing opinions here if I wish.

Mr. HOAR. Certainly. The case of Buffington and Day is by some minds regarded as an authority on the question we are discussing. The court have held that you can not tax the salary of a State officer, because it is a tax on a State function.

Now they say, by the same reasoning exactly, that you can not tax the interest on State bonds because it is a tax on a State function. My suggestion to the Senator from Mississippi was not sarcastic or ironical, but with entire and most absolute respect. I do not think it is asking the Senator to discuss a question not before the Senate. It is asking him if he can tell us why that argument is not an authority deciding the question before the Senate. That is what I ask.

Mr. GEORGE. I can answer that.

Mr. HOAR. That is all. I did not say the Senator has been a chief justice or ask the question in any spirit of derision or in jest, but in absolute respect and good faith.

Mr. GEORGE. I will answer that question. It is a presumption upon which all salary laws are passed, though I regret to say that in reference to the salaries of Federal officials it is not always a just and fair presumption that the amount fixed for the salary is that sum which is necessary to secure to the State or the United States the services of a competent man to perform the duties of the office. I think I am right that far.

Now, if we allow an extra authority to come in and tax that compensation which the State has adjudged by its laws (and the State is the only competent authority upon that subject) is the sum which is sufficient to get a competent man to perform the functions of government intrusted to that officer, then we allow an outside authority to destroy the power of the State to have a competent officer. That is the plea for him which does not apply to business men who hold these bonds.

Mr. HOAR. Who buy them in the market.

Mr. GEORGE. Who purchase them in the market and hold them.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York [Mr. HILL], on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CALL (when his name was called). I am paired with the Senator from Massachusetts [Mr. LODGE]. If he were present I should vote "nay."

Mr. MITCHELL of Oregon (when his name was called). I transfer my pair with the senior Senator from Wisconsin [Mr. VILAS] to the senior Senator from Nevada [Mr. JONES], and vote "yea."

Mr. MORGAN (when his name was called). I am paired with the Senator from Pennsylvania [Mr. QUAY].

The roll call was concluded.

Mr. CALL. I transfer my pair with the Senator from Massachusetts [Mr. LODGE] to the Senator from South Dakota [Mr. KYLE], and vote "nay."

Mr. FRYE. I am paired with the senior Senator from Maryland [Mr. GORMAN].

Mr. PATTON (after having voted in the affirmative). Has the junior Senator from Maryland [Mr. GIBSON] voted?

The VICE-PRESIDENT. He has not voted, the Chair is advised.

Mr. PATTON. I am paired with the junior Senator from Maryland, and therefore withdraw my vote.

The VICE-PRESIDENT. The Senator from Michigan withdraws his vote.

Mr. ALLISON (after having voted in the affirmative). I am paired generally with the Senator from Missouri [Mr. COCKRELL]. I understand he is necessarily absent for a portion of the day. Therefore I withdraw my vote, not knowing how he would vote on this question.

The result was announced—yeas 27, nays 30; as follows:

YEAS—27.

Aldrich,	Gallinger,	McMillan,	Pugh,
Caffery,	Gray,	Manderson,	Sherman,
Chandler,	Hale,	Mitchell, Oregon	Shoup,
Cullom,	Hawley,	Perkins,	Squire,
Davis,	Higgins,	Platt,	Teller,
Dixon,	Hill,	Power,	Washburn.
Dolph,	Hoar,	Proctor,	

NAYS—30.

Allen,	Daniel,	Lindsay,	Roach,
Bate,	Faulkner,	McLaurin,	Turpie,
Berry,	George,	Martin,	Vest.
Blackburn,	Harris,	Mills,	Voorhees,
Blanchard,	Hunton,	Pasco,	Walsh,
Call,	Irby,	Peffer,	White.
Camden,	Jarvis,	Pettigrew,	
Coke,	Jones, Ark.	Ransom,	

NOT VOTING—28.

Allison,	Frye,	Lodge,	Patton,
Brice,	Gibson,	McPherson,	Quay,
Butler,	Gordon,	Mitchell, Wis.	Smith,
Cameron,	Gorman,	Morgan,	Stewart,
Carey,	Hansbrough,	Morrill,	Vilas,
Cockrell,	Jones, Nev.	Murphy,	Wilson,
Dubois,	Kyle,	Palmer,	Wolcott.

So the amendment was rejected.

Mr. HILL. I call the attention of the Senator from Missouri to the wording of that portion of section 55 which relates to what is called the inheritance and gift tax. The bill as it came to us from the other House provided for a tax upon all personal property received by gift, devise, and inheritance. The word "devise" was stricken out, because it relates only to real property. I suppose that is the point to the amendment.

Before making any motion in this regard I call the attention of the Senate to this omission. It has been said over and over again in the debate that the object is to have a perfect bill, to have as few exemptions as possible, so that the bill can be more easily defended. The bill purports to require every gift of personal property and all inheritances of personal property to be taxed 2 per cent, the same as all other items of taxation.

Mr. HOAR. I should like to ask the Senator from New York if the word "inheritance" is any more applicable to personal property than the word "devise"?

Mr. HILL. Yes, it is. "Inheritance" includes both real and personal property, and "devise" includes real estate alone under the technical legal definition.

The pending bill, then, in its present shape excludes all gifts of real estate, although made in contemplation of death, and all real estate which is inherited. There is no dispute about that fact. I call attention to the peculiar situation of the bill. The collateral-inheritance statutes in the various States, now known more properly as inheritance and gift acts, because they have been enlarged so as to affect not only collateral relatives, but direct relatives to a very large extent, affect, for the main part in the respective States, only personal property.

In preparing the proposed law the parties who drew the bill have seen fit to tax that same personal property. Real estate is not taxed under these gift and inheritance acts. The very property which the States themselves have not assumed to tax the General Government steps in and does not tax, but the General Government steps in and assumes to tax just precisely what the States in the main assume to tax. There are some States, of course, where real estate is taxed, but in the main throughout the country those statutes relate simply to personal property. I call the attention of the Senate and the country to the fact that here is an omission, plain and distinct, placed in the bill for some good purpose or some bad purpose or for some purpose or other, whereby this species of property is entirely exempt.

I listened Saturday last to the distinguished Senator from Missouri, who argued very eloquently and ably that if a millionaire has $5,000,000 of personal property—he made the illustration in bonds then; the bond part is not essential now—or $5,000,000 in money, which he wants to give to a child, that that personal property should be taxed. It is said that if he dies without a will and leaves the property to his children it ought to be taxed. The Senator said there might be $5,000,000 of property, and argued eloquently and ably that the Government had protected this property and that when the party, in view of death or by will, makes the gift, or the child receives the inheritance, it ought to be taxed.

I simply suggest for the consideration of the Senate what about a gift of real estate worth $5,000,000? What about receiving $5,000,000 worth of real estate by inheritance? It is exempted by the terms of the bill. Now, I desire to know from the distinguished Senator from Missouri what are the grounds of that exemption. Are they legal, constitutional, or is it deemed best as a matter of discretion to exclude this class of property?

Mr. VEST. This is an income tax, and that is the answer to the Senator from New York. This section, a part of which he now proposes to amend in section 54, provides that the income tax shall be laid upon any kind of property, rents, interests, dividends, salaries, etc.

Mr. HILL. Where is that provision?

Mr. VEST. On page 170, lines 15, 16, and 17. If we exempted the rents of real estate, then the argument of the Senator from New York would be entirely pertinent and proper; but we do nothing of the kind.

We tax all incomes from any source whatever, and we specify the income coming from real estate. This portion of the bill which the Senator proposes to amend refers to personal property that comes by gift or inheritance. If the Senator could

find any way to put real estate in the shape of an income derived by inheritance or gift, I should wonder at his ingenuity and ability, for I can not conceive how it could be done.

Mr. ALLISON. May I call the attention of the Senator from Missouri to line 25, page 171, which says, "the value of all personal property." Therefore personal property must be valued under the inheritance tax. I do not see any more difficulty in valuing real estate than personalty.

Mr. VEST. We put a tax immediately upon the income derived from real estate after it goes into the hands of the person to whom it descends. You can not, in my judgment, call it an income, when real estate is given to a party and you immediately put a tax upon the income derived from it.

Mr. ALLISON. Let me suggest an instance to the Senator. A person has $100,000 in realty and $100,000 in personal property, both acquired by inheritance. The tax-gatherer must value the personal property and collect 2 per cent upon it at once; not upon the income of it afterward, but upon the actual property. What greater difficulty is there in valuing realty and collecting 2 per cent upon it than upon personal property? I do not see it myself.

Mr. VEST. The law of 1864, and the bill as it came over to us from the other House, disposed of real estate by putting a tax upon the income derived from it. Now, when personal property on the other hand comes to a party, it is treated as money, and the language of the bill as it came from the other House, which is copied, I think, from the act of 1864, is:

> The amount of money, notes, bonds, choses in action, and the value of any personal property received by gift, devise, or inheritance.

Mr. ALLISON. That value must be appraised. Otherwise the officers would not know what it is.

Mr. VEST. As a matter of course.

Mr. ALLISON. So I do not see the difficulty in appraising real estate. I only call the attention of the Senate to it.

Mr. VEST. The proposed law here was dealing with personal property alone and money, which is personal property. The amendment which we made to the bill was simply to strike out the words "the amount of money, notes, bonds, choses in action," which are personal property, and say "money and the value of all personal property acquired by gift or inheritance."

In other words, the terms of the law originally in 1864 and in the bill as it came from the other House recognized the difference between perishable property or personal property and real estate, and put a tax upon the income of real estate and upon the personal property itself. As soon as a party receives from any one a piece of land, the income from the land becomes taxable under the proposed law, and therefore you can not say that the real estate is exempt from taxation.

Mr. HILL. The moment a party receives any personal property, does not the income thereafter become subject to the tax?

Mr. VEST. Yes. The phrase came to us in the bill originally and is found in the act of 1864. I suppose the assumption was that personal property could be used immediately and become a part of the income; that it was not like real estate, which is represented by its rent. The first part of the section to which I have alluded deals with real estate. The latter part of it deals with personal property. To increase the amount of liability to taxation by including in anybody's income not only the value of the real estate, but then proceed also to tax the rents of the real estate, it seems to me is a monstrous proposition, for it would be in the nature of double taxation and would be oppressive; but if the Senate upon argument thinks that is fair and proper, I have no pride of opinion about it.

Mr. PLATT. I do not think there ought to be included in the yearly income which is to be taxed, either the real estate which may be received by devise or personal property which is received by inheritance or gift.

Mr. HILL. I am going to make a motion also in regard to that provision.

Mr. PLATT. I do not think it is any part of the yearly income. I think it is entirely foreign to the scheme of the bill.

I wish to state, while I am up, that there is no feature of the English income tax which is so odious in England as what they call the death duties. That is the name which they have given this sort of taxation in England. The death duties are very odious, and they ought to be odious in this country. They are no part of a person's real income.

Mr. CHANDLER. There seems to be no doubt at all that the bill adopts an inheritance tax right into the body of it.

Mr. HILL. And calls it an income tax.

Mr. CHANDLER. It purports to be an income tax, but it is an inheritance tax upon personal property. There is no doubt about that. It is an inheritance tax upon personal property only.

I believe that the State of New York has within a very few years adopted an inheritance tax, and that it realizes from taxes on inheritances within the State a very large sum of money, $2,000,000 or $3,000,000 annually.

Now, the income-tax provision which in theory is intended to tax the income for one year and another year, and so on year by year, proceeds to take 2 per cent out of every inheritance of personal property, no matter how large it is. There can be no escape, as it seems to me, from the assertion that here is an inheritance tax upon personal property and not an inheritance tax upon real estate. It seems to me that the distinction which has been drawn by Senators here is absolutely good, and that you have adopted the most astonishing feature of putting into an income tax an inheritance tax.

You have discriminated against the person who inherits personal property and in favor of the person who inherits real estate. I do not see that the distinction which the Senator from Missouri makes can possibly be good, that it is justifiable to make this distinction because after you have imposed this income and inheritance tax you continue to tax the income from real estate.

Mr. VEST. Let me ask the Senator from New Hampshire a question before he takes his seat. How could you put this tax upon real estate unless you conform to the Constitution, which only permits the imposition of a direct tax on the basis of population?

Mr. CHANDLER. The Senator from Missouri is only arguing against a theory which I shall not defend. I think it is a fundamental error to undertake to put an inheritance tax into an income-tax bill, and I hope the Senator from New York——

Mr. VEST. The Senator from New Hampshire does not answer my question.

Mr. CHANDLER. Wait a moment. I hope the Senator from New York, instead of moving to add to the bill a provision that there shall be a tax of 2 per cent upon all real estate, will move to strike out the 2 per cent tax upon personal property. Now, I will hear the Senator from Missouri again.

Mr. VEST. The bill, if the Senator will permit me, only provides a tax of 2 per cent upon the income derived from real estate. The Senator does not answer my question. The Constitution of the United States provides that no direct tax upon real estate shall be levied unless it be according to population. How could we have put this tax upon real estate itself under that provision of the Constitution?

Mr. CHANDLER. I am happy to agree with the Senator from Missouri. I do not think he could have levied such a tax, but I think that therefore he had better strike from the bill the inheritance tax upon personal property. The Senator always convinces me when he is right.

Mr. VEST. I am glad to hear it.

Mr. CHANDLER. I always give careful and candid attention to the views which the Senator submits to the Senate. I think he is right in maintaining that you can not in the pending bill constitutionally tax an inheritance of real estate; but if you are dealing with incomes it is no reason for taxing an inheritance of personal property 2 per cent, once for all, by saying that as to real estate the annual income from it will be taxed in future years, because, as the Senator from New York has said, so will the income of the personal property be taxed in future years.

If you tax it 2 per cent as the inheritance tax and the person retains it in his possession when another year comes around, then of course you take the income derived from it and tax the income 2 per cent again. The proposition in the bill to add an inheritance tax is an anomaly which I am quite sure the Senator from Missouri, now that he has convinced himself that he can not constitutionally put an income tax on an inheritance of real estate, will strike out of the bill.

Mr. HILL. Mr. President, I wish to say a few words before I move an amendment to the bill. It is difficult, allow me to say, for me to defend any sort of these gift and inheritance taxes. They are taxes which are easily collected, but it always appeared to me as if they were imposed without regard to any fixed principle of taxation for the reason that if A is the owner of a large amount of real and personal property upon which he pays to his Government and State all taxes which can be properly imposed upon it while he owns it, simply because he wants to transfer the property by deed or will or bill of sale to his nephew, his protégé, or whoever he pleases, the Government or State steps in, and because of the mere act of transfer, takes some portion of that property, because the moment the property vests in the transferee the State and the Government can step in and still tax the property, both real and personal.

In other words, it is a tax upon the property *in transitu*. While A owned the property he paid the just demands of government and when he transferred it the transferee pays the just demands of government, State and national. Therefore I do not take much stock in the theory that the collateral inheritance or the

direct inheritance is founded upon any just principle. It is very difficult to defend it.

The first point which I am now making is that you have assumed to place in this tariff-reform bill first an income tax, and now you have endeavored to place in the income tax an inheritance. What a man receives by gift, that which he does not earn, is not an income within a proper sense of the term. That which my father leaves me by inheritance or by will is not an income within the proper, strict definition of the term. It is an inheritance. It is a gift which in my judgment ought not to be taxed by the General Government. At least there can be no sound reasons advanced why such a tax ought to be placed in the bill.

When the Senator from Missouri and the Senator from New Hampshire both agree upon the proposition that the income tax was withheld from real estate because of the want of constitutional power to impose it the matter needs a little further investigation. I am suspicious of the law when they both agree upon it.

Mr. CHANDLER. Will the Senator from New York allow me. A farm, a piece of real estate, passes from father to son to-day, and the Government by the bill would take, if such a clause were in the bill, 2 per cent of its value. Is not that a tax upon real estate? I agree with the Senator from New York that it is in no sense an income tax; it is an inheritance tax. But is there any possibility that when the Senator from Missouri and I agree upon that proposition, and the proposition itself is stated to the Senator from New York, he can get rid of the fact that it is a tax upon real estate if you take 2 per cent of it by the bill.

Mr. HILL. The chances are that both the Senator from New Hampshire and the Senator from Missouri are wrong, and the difficulty is simply that the income tax law of 1864 or some of the various provisions of the laws of 1861, 1862, 1863, or 1864 did contain just such a tax.

Mr. CHANDLER. Is the Senator from New York sure of that?

Mr. HILL. Yes, sir.

Mr. ALLISON. An inheritance tax is not an income tax.

Mr. HILL. Call it what you please; it matters not what you call it, the Supreme Court of the United States decided that the imposition of that tax was not a tax upon real estate, but that it was a tax upon what they called the devolution of real estate.

The court upheld the tax, making the distinction that Congress could not tax land directly except in the manner pointed out by the Senator from Missouri, but that it had a right to step in and make this devolution tax, which was a tax not upon the land itself, but a tax upon the transfer, and that made it constitutional. Therefore, much as I regret to disagree, there is no prohibition upon Congress constitutionally placing in the bill an inheritance tax or a tax upon devolutions, because we must bow with respect to the decision of the Supreme Court upon that subject.

It is of no consequence whether the committee misapprehended the law or whether they proceeded upon the ground that it is not constitutional to do it. It has been omitted, and the fact remains that they do not propose to tax real estate or the devolution of real estate. They do not propose, under the provisions of the bill, to tax an inheritance or a gift of real estate. I call attention to the fact that here is a large class of property which by the terms of the bill is omitted from taxation.

Now, shall we amend the bill by including this large amount of real estate? With some propriety that might be done, because, as I said a moment or two moments ago, you do not then conflict to any extent with the State governments, because nearly all the inheritance and gift taxes of the State governments are taxed upon personal property just as this is, and are not taxed upon real estate. But the pending bill seems to desire double legislation and taxes the very same gifts and the very same inheritances which the States tax, instead of taking real estate inheritances and the real estate gifts which the States as a usual rule do not tax.

I make no motion to include real estate, especially not now. I do not know, of course, how much revenue is expected or desired under the pending bill. I heard the colloquy which took place Saturday last between the distinguished Senator from Ohio [Mr. SHERMAN] and the distinguished Senator from Missouri [Mr. VEST], which ought to be repeated to and impressed upon the country. It is as follows:

Mr. SHERMAN. I desire to inquire of the Senator in charge of the bill whether he has an estimate from the Treasury Department, or whether he has made any estimate himself as to the amount which the income tax will probably yield?

Mr. VEST. There never has been any estimate from the Treasury Department, except one made in an informal way by the Commissioner of Internal Revenue as to the result of the tax upon corporations.

I will say very frankly to the Senator from Ohio, that the general estimate has been at $30,000,000, but I have never been able to find any reliable data on which to base an estimate, and I do not think anybody knows or can state what it will be.

I admire the frankness of the Senator from Missouri, but what a basis this is on which to frame a bill! Nobody knows what income is going to be produced.

Mr. ALDRICH. Will the Senator from New York allow me?

Mr. HILL. Certainly.

Mr. ALDRICH. It must have been extremely difficult for the Senator from Missouri or any other Senator to have made an estimate at any particular time as to the revenue to be derived from this tax, because the terms of the bill have been changed very frequently. The amendments which were offered very recently by the committee changed the revenue to be derived from the income tax very greatly. For instance, take the tax upon corporations. The tax upon corporations in the original Vest amendment, so called, would have been at least ten times as great as it is in the amendment as it now stands.

So, until the Senate shall determine to some extent at least what the provision of the income-tax part of the bill is to be, I think no intelligent estimate can be made as to the revenue. It may be $5,000,000, and it may be $50,000,000. I think, as it came from the House of Representatives, the revenue would have been nearer $50,000,000 than $30,000,000, and I am not sure but that as it stands now $30,000,000 would be a fair estimate of the revenue. But the terms of these various sections are so uncertain and indefinite that it is entirely impossible for any man, whether he be an expert or not, to make an estimate of its effect upon the revenues.

Mr. HILL. I know the difficulties which any expert must encounter, yet I think that by taking the census returns of wealth, and the House bill as it was presented here, or the Senate bill in substantially the shape in which it was originally reported, it would have been possible to have produced some estimate whereby we might have had some reasonably accurate information as to what we were doing. But now we are going it blind. It is conceded that we are. We are putting in not only an income tax without knowing what it will produce, but in addition to an income tax we are now putting in an inheritance and gift tax.

Mr. VEST. Will the Senator from New York answer me a question?

Mr. HILL. Yes.

Mr. VEST. I understand the Senator now to be attacking the committee because they are not able——

Mr. HILL. I am not attacking the committee.

Mr. VEST. Attacking the bill, then. There is no choice between the words.

Mr. HILL. I am making suggestions in regard to it.

Mr. VEST. The Senator is antagonizing the measure upon the ground that there is no estimate of the amount of revenue to be derived. Now, if I am not mistaken, here is a succession and inheritance bill, sent me by the chairman of the Ways and Means Committee, which I think was drawn by the Senator from New York. [Exhibiting.]

Mr. HILL (examining). I do not know where this bill came from.

Mr. VEST. I have understood—the Senator is entitled to have the question put frankly—that he is the author of the bill; that he could not introduce it in the Senate on account of the constitutional provision as to raising taxes, and it was sent by him to the Ways and Means Committee. I propose to ask him whether that is his bill?

Mr. HILL. It is a printed bill. It is not in my handwriting. I can not identify it.

Mr. VEST. The Senator can look at it and see whether the provisions in it were in the bill he drew.

Mr. HILL. I will answer the question in just a moment. When the tariff bill was first proposed and an income tax was suggested as a part of it, certain members of Congress, whose names I need not give, talked with me in regard to the income tax; and they suggested why would it not be proper to have such a tax as exists in the State of New York. I neither concurred in the propriety of that suggestion, nor did I oppose it. They asked me whether I was familiar with this subject, and I said that I was; that I had been interested in some very large litigations in the State of New York growing out of this question, which arose subsequent to my ceasing to be the chief executive of the State of New York.

I was entirely familiar with it. I was asked to prepare a bill for the taxation of collateral inheritances, which I did. I never introduced the bill; I never intended to introduce the bill. I could not, in fact, introduce it in the Senate, but at the personal request of the chairman of the Ways and Means Committee I gave him a bill, which was drawn after consultation with a distinguished lawyer of the city of New York, with whom I was associated in a somewhat famous litigation. In just so far, and so far alone, I was in part responsible for some bill which was passed over to the Ways and Means Committee.

Allow me further to say that it was intended as a substitute

for the income-tax provision and not as a part of it; but the Committee on Ways and Means seemed to grab both the income tax and then this tax, too, and made provision for both of them. I have never desired the General Government to pass either of these bills; but I was willing so far as I could, to assist the Ways and Means Committee, or certain other members of Congress who first spoke to me about it. Whether the Ways and Means Committee have incorporated it in here I am not prepared to say. I have thus answered the Senator's question very frankly.

I do not propose now to make a motion to tax real estate, or rather the devolution of real estate, which is the term used by the Supreme Court of the United States; but I do desire to call attention to the fact that the committee have omitted by the bill to tax real estate at all, directly or indirectly. They have framed a bill whereby the same property is taxed that the States themselves tax, and thereby there will be double taxation.

The first motion which I desire to make is to strike out the words at the bottom of page 171, in section 55, line 25:

Money and the value of all personal property acquired by gift or inheritance.

This motion does not involve now any question, constitutional or otherwise, relating to real estate. It involves simply the question of the propriety of keeping in the bill, which provides, first, for a tariff, and, second, for an income tax, the provision for a gift or inheritance tax. That this portion of the bill will realize a large amount of money there can be no doubt. It is a 2 per cent tax. Nearly all of the States which have this sort of taxation already tax the same class of property 5 per cent. This will make 7 per cent taxation, a burden which the estates can not very well bear.

As I said a moment ago, let your income tax be kept distinct and separate. I see no necessity for adding an inheritance and gift tax to the provisions for an income tax, because, as has been well said, it is not an income in the proper acceptation of the term. A gift is a matter of good fortune simply. A man makes a gift a half dozen times during his lifetime, and a person acquires property by the death of a relative but very few times in a lifetime. It is not an income in the proper sense of the term. Should the Federal Government step in and simply tax the charities of this world, simply tax the generosities of this world, simply tax the accidents of fortune, simply tax what a party leaves by his death in the way of personal property? I think not. Bear in mind, then, we will have double taxation—taxation of the State and Federal Governments.

I am making no question of the constitutional power of the General Government to impose this tax now. I simply say, that as a matter of propriety, as a matter of good legislation, it ought not to be done. I reiterate for the twentieth time that I stand here to protect the rights of the States in their proper field of taxation. You are taking away from the State governments large amounts of their revenues. These estates can not well pay these large sums. Let us leave something for the State governments. Tax the incomes of their citizens, tax their business if you please, but leave this inheritance and gift tax for the action of the State governments.

It seems to me that is proper and right, especially in view of the consideration that, in my judgment, there is no inherent justice in these taxes anyhow. I, owning property, pay my just taxes upon $10,000 worth of personal property all my life, and I desire simply to hand it over to my friend or any relative; I do not see the reason why for the mere act of the transfer the property should be taxed or the person should be taxed, and my transferee then pays his or her proportion of the tax after the property reaches him or her.

Mr. HARRIS. I move to lay the amendment of the Senator from New York on the table.

Mr. VEST. Will the Senator from Tennessee permit me to make a single statement?

Mr. CHANDLER. Will the Senator from Tennessee permit me to make a single statement?

Mr. VEST. I yield to the Senator from New Hampshire.

Mr. CHANDLER. I do not wish the Senator from Missouri to yield to me but I wish the, Senator from Tennessee to yield to both of us.

Mr. VEST. The Senator from Tennessee yields, and I yield to the Senator from New Hampshire.

Mr. HARRIS. These appeals overwhelm me.

Mr. CHANDLER. I knew they would. I desire to ask the Senator from New York whether he understands the Supreme Court of the United States decided that the succession tax of 1864 was constitutional?

Mr. HILL. I have been so informed.

Mr. CHANDLER. If that is true, while I shall make the best distinction I can on this joint proposition of the Senator from Missouri and myself, I shall be obliged to admit that the Senator from New York in his contention has the Supreme Court of the United States on his side. I do not know whether a little matter of that kind will trouble the Senator from Missouri or not. It does not trouble me a great deal as a matter of original opinion, and yet I suppose we should be obliged to submit, if the bill becomes a law, to a like decision which might be made by the Supreme Court of the United States if the Supreme Court should adhere to the decision formerly rendered.

In the act of 1864 there is included, not as an income tax proper, not in the body of the income-tax portions of the act, but as a separate part of the act, a tax upon the succession to personal property and a tax upon the succession to real estate and the same rates of taxation are fixed upon a lineal descent, as from father to son, 1 per cent on the value; where the descent is through a brother, 2 per cent, and 4 per cent, 5 per cent, and 6 per cent on different kinds of inheritances. There is also a similar rate of imposition upon the succession to real estate, as the Senator from New York has stated; the succession is termed a devolution:

The term succession shall denote the devolution of title to any real estate.

As I understand the Senator from New York, the Supreme Court in sustaining a war tax held that taxing the devolution of real estate was not taxing real estate within the meaning of any supposed prohibition of a tax upon real estate, a direct tax, unless it was made in proportion to the population of the United States. Upon that ground it does appear that the succession to real estate or the devolution of real estate was taxed in the act of 1864, and the constitutionality of that tax was affirmed by the Supreme Court of the United States.

So we stand here to-day in this condition, that contrary to the opinion of the Senator from Missouri and myself, so far as the Supreme Court of the United States is concerned, there may be a constitutional inheritance tax upon real estate as well as a constitutional inheritance tax upon personal property, and that being the case I continue to argue to the Senator from Missouri that either this inheritance tax ought to be stricken out of the bill and no attempt be made to inflict an inheritance tax, a succession tax, at the same time with the imposition of an income tax, or else that, to be consistent and to do equity, the inheritance tax ought to be imposed not alone upon the inheritance of personal property but it ought also to be imposed upon the succession to real estate.

I can not myself see any difference equitably between the two classes of inheritances. If you tax the amount of each, after you have taxed the two, the income in future years from both these classes of property will be taxable under an income tax, and there is no justice or equity in taking 2 per cent every year that an inheritance falls in from an inheritance of personal property alone and carefully refrain from taking it upon an inheritance of real estate.

Mr. VEST. Mr. President, I have but a single word to say in reply to the Senator from New York. As a matter of course I would not occupy the floor for a single second simply to convict the Senator of any inconsistency, if there should be any, as to his action in regard to this succession and inheritance tax; but I am glad to be able to reënforce the position of the committee in regard to this question by producing here the bill which the Senator from New York says he prepared at the instance of his colleagues in the other House.

I understand the Senator, in the first place, to declare great reluctance as to any succession or inheritance tax at all, and he has given his reasons for that reluctance. Then, in the second place, he insists that, if there is a tax upon inheritance, so to speak, or more properly the descent and distribution of personal property, it should also be upon the value of real estate which descends to an heir or is given to any person. Then he moves to strike out that language in the pending bill which puts the tax upon the value of personal property which comes by descent or distribution to any person.

It is entirely fair to assume—it would be an outrage to assume otherwise—that when the Senator from New York prepared this bill which he sent to his colleagues in the other House, and which I obtained from the Ways and Means Committee, he put into it suggestively at any rate what he considered fair and proper legislation, he says now, as a substitute for this income tax provision. Whether it be a substitute or an original measure does not matter. I state that as a matter of course he would not have suggested even what he denounces now as false and vicious legislation.

Now, this bill (which I propose to put in the RECORD, because I say it reënforces the position of the committee in regard to this legislation) puts an inheritance and succession tax upon all per-

sonal property or real estate of more than $5,000 in value; but the clause to which I ask attentions is as follows:

First. Where the person or persons entitled to any personal property, income, or beneficial interest therein shall be the lineal issue or lineal ancestor to the person who died seized or possessed of such property as aforesaid, at the rate of $1 for each and every hundred dollars of the clear market value of such personal property or interest therein; *Provided*, That real estate passing to the persons referred to in this subdivision shall be exempt from taxation under this act.

In other words, the bill drawn by the Senator from New York exempts the real estate, although he now attacks the bill pending in the Senate because it does not include real estate as taxable when going by devise to any person whatever.

Mr. President, this bill, which I propose to put in the RECORD, certainly shows what the Senator thought was good legislation upon this subject at that time. He says it was intended as a substitute for the provisions of the pending bill, and it contains substantially, if not identically, the same provision of which such great and strenuous complaint is now being made.

The bill referred to is as follows:

An act to impose a collateral inheritance, legacy, or succession tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after the passage of this act all property, real and personal, whatsoever, which shall pass by will or by the intestate laws of any State or Territory from any person who shall die seized or possessed of the same, or any interest therein or income therefrom which shall be transferred by deed, grant, bargain, sale, or gift made or intended to take effect in possession or enjoyment after the death of the grantor or bargainer, to any person or persons, or to any body politic or corporate, in trust or otherwise, or by reason whereof any person or body politic or corporate shall become beneficially entitled in possession or expectancy to any property or to the income thereof (where the whole of such property shall exceed the sum of $5,000 in fair market value) shall be, and hereby is, subject to a tax or duty, to be paid to the United States as follows, that is to say:

First. Where the person or persons entitled to any personal property, income, or beneficial interest therein shall be the lineal issue or lineal ancestor to the person who died seized or possessed of such property as aforesaid, at the rate of $1 for each and every hundred dollars of the clear market value of such personal property or interest therein: *Provided*, That real estate passing to the persons referred to in this subdivision shall be exempt from taxation under this act.

Second. Where the person or persons entitled to any property, real or personal, or to any beneficial interest therein, shall be the brother or sister of the person who died seized or possessed, as aforesaid, or a descendant of such brother or sister, at the rate of $2 for each and every hundred dollars of the clear market value of such property or interest.

Third. Where the person or persons entitled to any real or personal property or to any beneficial interest therein shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother, or the person who died seized or possessed, as aforesaid, at the rate of $4 for each of every hundred dollars of the clear market value of such property or interest.

Fourth. Where the person or persons entitled to any real or personal property or to any beneficial interest therein shall be a brother or sister of the grandfather or grandmother, or a decendant of a brother or sister of the grandfather or grandmother, of the person who died seized or possessed, as aforesaid, at the rate of $5 for each and every hundred dollars of the clear market value of such property or interest.

Fifth. Where the person or persons entitled to any property real or personal or to any beneficial interest therein shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the person who died seized or possessed, as aforesaid, or shall be a body politic or corporate, at the rate of $10 for each and every hundred dollars of the clear market value of such property or interest:

Provided, That all property real or personal or any interest therein passing by will, or by the laws of any State or Territory, or by deed, grant, bargain, and sale, or other conveyance, to husband or wife of the person who died seized or possessed, as aforesaid, shall be exempt from tax or duty, unless such interest shall exceed the clear market value of $50,000, in which case the excess only over and above that sum shall be liable to taxation at the rate of $1 for each and every $100 of the clear market value of such excess:

Provided further, That any personal property or legacy or interest therein passing, as aforesaid, to a minor child of the person who died possessed, as aforesaid, shall be exempt from taxation under this section, unless such property, legacy, or interest therein shall exceed the sum of $10,000, in which case the excess only above that sum shall be liable to such taxation at the rate of $1 for each and every $100 of the clear market value of such excess. The word "child" or "children" shall also include a child or children adopted as such, by the person who died seized or possessed, under and pursuant to the laws of any State or Territory; and the words "person" or "persons" in this act shall also include any body politic or corporate, organized under the laws of the United States or under the laws of any State, Territory, or foreign state or power.

SEC. 2. If a testator bequeathes or devises property to one or more executors or trustees in lieu of their lawful commissions or allowances, or makes them his legatees to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed or devised, above the amount of commissions or allowances prescribed by law in similar cases, shall be taxable under this act.

SEC. 3. *And be it further enacted*, That the tax or duty aforesaid shall be due and payable whenever the party interested in such property, real or personal, shall become entitled to the possession or enjoyment thereof, or to the beneficial interest in the profits accruing therefrom, and the same shall be a lien and charge upon the property of every person who may die seized or possessed thereof, as aforesaid, for ten years, or until the same shall, within that period, be fully paid to and discharged by the United States. It shall be the duty of every administrator, executor, or trustee having in charge or trust any property, real or personal, or interest therein, as aforesaid, to give notice thereof, in writing, to the collector or deputy collector of internal revenue of the district where the deceased testator, intestate, grantor, or bargainer last resided, within thirty days after he shall have taken charge of such trust, property, or interest.

SEC. 4. Every executor, administrator, or trustee shall be personally liable for said tax until the same is paid, and before payment or distribution to the heirs, legatees, devisees, or any parties entitled to said property or any beneficial interest therein, such executor, administrator, or trustee shall pay to the collector or deputy collector of the district of which the deceased was a resident the amount of tax or duty assessed upon such property, and shall also make and render to the said collector or deputy collector of internal revenue of said district a schedule, list, or statement of the amount and character of such property, together with the amount of duty which has accrued, or shall accrue, thereon, verified by his oath or affirmation, to be administered and certified thereon by some magistrate or officer having lawful power to administer such oaths, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.

SEC. 5. The schedule, list, or statement referred to in section 4 shall contain the names of each and every person entitled to any beneficial interests therein, together with the clear market value of such interest; and upon such payment and delivery of such schedule, list, or statement said collector or deputy collector shall make out and deliver to such persons paying such duty or tax a receipt or receipts for the same, which shall be prepared as hereinafter provided. Such receipt or receipts, duly signed and delivered by such collector or deputy collector, shall be sufficient evidence to entitle such executor, administrator, or trustee to be credited and allowed such payment by every tribunal which, by the laws of any State or Territory, is or may be empowered to decide upon and settle the accounts of executors, administrators, and trustees.

SEC. 6. In case such executor, administrator, or trustee shall refuse or neglect to pay the aforesaid duty or tax to the collector or deputy collector, as aforesaid, within the time hereinbefore provided, or shall neglect or refuse to deliver to said collector or deputy collector the schedule, list, or statement of such property, real or personal, under oath, as aforesaid, or shall deliver to said collector or deputy collector a false schedule or statement of such property, or give the names and relationship of the person entitled to beneficial interest therein untruly, or shall not truly and correctly set forth and state therein the clear market value of such property or interest, and in case of willful neglect, refusal, or false statement by such executor, administrator, or trustee, as aforesaid, he shall be liable to a penalty of not exceeding $1,000, to be recovered with costs of suit.

SEC. 7. Any executor, administrator, or trustee on paying said tax to the collector or deputy collector within sixty days from the time of the death of the testator, intestate, grantor, or bargainer shall receive and be entitled to a discount of 5 per cent, which shall be allowed and deducted from said tax.

SEC. 8. Whenever the collector shall be dissatisfied with any statement, list, or schedule delivered to him as provided in the last section, or in case none shall be so delivered, or the tax shall not be duly paid, he shall commence appropriate proceedings, in the name of the United States, before any circuit or district court of the United States, against any executor, administrator, trustee, or against such person or persons as may have the actual or constructive custody or possession of such property, real or personal, or any part thereof, and shall subject such property or any portion of the same, to be sold upon the judgment or decree of such court for the amount of said tax and costs, and from the proceeds of such sale the amount of such tax or duty, together with all costs and expenses of every description to be allowed by such court, shall be first paid, and the balance, if any, deposited according to the order of such court, to be paid under its direction to such person or persons as shall establish title thereto. Such decree or judgment shall likewise enforce the personal liability for said tax against any executor, administrator, or trustee. Upon the application of the collector or deputy collector, said circuit or district court shall, as often as and whenever occasion may require, appoint a competent person as appraiser to fix and ascertain the fair market value, at the time of the death of said testator, intestate, grantor, or bargainer, of the property of persons whose estates shall be subject to taxation under this act. If the property upon the passing of which a tax is imposed shall be an estate, income, or interest for a term of years, or for life, or determinable upon any future or contingent event, or shall be a remainder or reversion, or other expectancy, real or personal, the entire property or fund by which such estate, income, or interest is supported, or of which it is a part, shall be appraised immediately after the death of the testator, grantor, or bargainer, or as soon thereafter as may be practicable, at the fair, clear, market value thereof at that time: *Provided, however*, That when such estate, income, or interest shall be of such a nature that its fair and clear market value can not be ascertained at such a time, it shall be appraised in like manner at the time when such value first becomes ascertainable.

SEC. 9. Such appraiser shall forthwith give notice by mail to all persons known to have an interest in the property to be appraised, including the collector or deputy collector, of the time and place when he will appraise such property. He shall at such time and place appraise the same at its fair market value, as herein prescribed; and for that purpose the said appraiser is authorized to issue subpœnas to and compel the attendance of witnesses before him, and to take the evidence of such witnesses under oath concerning such property and the fair market value thereof, and he shall make report thereof and of such value in writing to such court, together with the depositions of the witnesses examined, and such other facts in relation thereto as the court may require.

SEC. 10. Every such appraiser shall be paid, on the certificate of the clerk of the United Stares circuit court in the district in which said proceedings shall be pending, a fair and reasonable compensation not exceeding dollars per day, together with the actual and necessary traveling expenses and fees of witnesses, which sum shall be paid by the collector out of any funds he may have in his hands on account of any tax imposed under the provisions of this act.

SEC. 11. The report of such appraiser shall be filed with the clerk of the circuit or district court in which said proceeding is pending, and from said report and other proof before the court, after hearing the parties, said court shall determine the cash value of all property and estates and the amount of tax to which the same are liable. Said court shall also have jurisdiction to hear and determine all questions arising under the provisions of this act. Upon such determination a decree or judgment for the amount of such tax shall be entered and may be enforced in the manner provided in section 7 of this act. Any person dissatisfied with or aggrieved by any determination, decree, or judgment under this act, including the collector, may appeal therefrom in the same manner and with the same effect as appeals are now taken from judgments or decrees under and pursuant to the laws of the United States in civil causes, providing that said appeal shall be taken within thirty days after the entry in said court of said judgment or decree.

SEC. 12. In any proceeding under this act, any collector is authorized to designate and retain such counsel as he shall deem necessary and proper to represent the United States therein, and to pay the expenses thereby incurred out of any funds which may be in his hands on account of this tax.

SEC. 13. The deed or deeds, or any proper conveyance of such property, personal or real, or any portion thereof, so sold under such judgment or decree, as hereinbefore provided, executed by the officer lawfully charged with carrying the same into effect, shall vest in the purchaser thereof, all the title of the delinquent to the property real or personal sold under and by virtue of such judgment or decree, and shall release every other portion of such property from the lien or charge thereon created by this act.

SEC. 14. Every person, or persons, body politic or corporate, who shall have in his or its possession, charge, or custody, any record, file or paper contain-

ing, or supposed to contain, any information concerning any property passing from any person who may die seized or possessed, as aforesaid, shall exhibit the same at the request of the collector or deputy collector of internal revenue in the district, and to any law officer of the United States, in the performance of his duty under this act, his deputy or agent, who may desire to examine the same. And if any such person having in his or its possession, charge, or custody any such records, files, or papers shall refuse or neglect to exhibit the same on request, as aforesaid, he or it so refusing shall forfeit and pay the sum of $500: *Provided*, that in all legal controversies where such deed or title shall be the subject of judicial investigation, the recital in said deed shall be prima facie evidence of its truth, and that the requirements of the law had been complied with by the officers of the Government.

SEC. 15. Any tax paid under the provisions of this act shall be deducted by the executor, administrator, or trustee from the particular property, legacy, distributive share, or interest on account of which the same is charged.

Mr. HILL. Mr. President, if the Senator from Missouri should come into my office and want me to draw his will and tell me that he wanted to give his property in a certain peculiar way, and wanted me to draw it that way, preserving all the legal forms, I would draw it that way, and I would not be held responsible except for the legality of the will itself. The propriety of the will is a matter that he would have to shoulder. So, when a client comes into my office and asks me to draw a lease, the terms of the lease are his own. I simply prepare the paper so that it shall be in terms constitutional and legal.

I decline to be held responsible for any bill which I drew at the instance of any members of Congress simply as a matter of favor. It did not even embody my own views and was substantially a copy, so far as it could be framed, of the laws of the State of New York, with a few alterations which were suggested. That is all there was of it. The bill did not meet my assent, except I am free to say if we were to choose between the income tax on the one side and that bill upon the other, I would prefer that. That is all there is of it, Mr. President. I have introduced and drawn bills for other people before, and I do not propose to be held responsible for their terms, except so far as the legality of the bills is concerned; I presume it would be constitutional and drawn in proper shape, but the merits is entirely a different question.

Mr. President, the inheritance laws of New York tax personal property. My present recollection is they also provide for a tax upon real estate where the real estate goes to collateral relatives. I think you will find that is the distinction. There was no effort here I think to provide for the collateral relatives especially by a higher tax. Still there may have been. It is some time ago, and the precise details of the bill have, of course, gone out of my mind. Never at any time have I favored identifying an inheritance or gift tax proposition with an income tax. Take out your income tax to-day and substitute that measure, and I should certainly favor the substitution of one for the other. I do not think that the country needs either of them, and I think that either of these propositions does injustice to the States of the Union.

The State of New York realizes some $3,000,000 annually from the inheritance tax. When this question was first suggested, the Legislature of New York passed a joint resolution substantially unanimously protesting against any tax being imposed by the Federal Government upon gifts or inheritances, on the ground that it was invading the province of the States. I have in my desk somewhere, or possibly I submitted them here, the joint resolutions of the Legislature of my State, by Republicans and Democrats alike, protesting against this tax.

Mr. President, this tax is to be defended not because somebody at any time drew a bill in regard to it. Place that tax bill as a separate proposition, and it will be defended upon its merits or condemned for its demerits. The question is, Do you not only need an income tax proper, but do you need the revenues which are to be derived from this inheritance and gift tax? I think not. I think it is wiser in framing our legislation to leave these revenues to the State governments. They will have but little left after this bill passes except real and personal property upon which they can impose taxation. For these reasons I think my motion to amend ought to prevail.

Mr. HARRIS. I move to lay the amendment on the table.

Mr. HILL. There will be no further debate. Will not the Senator allow a direct vote?

Mr. HARRIS. If I could be sure of that, I would quite as soon take the question on the amendment.

The VICE-PRESIDENT. Does the Senator from Tennessee withdraw his motion?

Mr. HARRIS. I do not.

Mr. HILL. I ask unanimous consent that a vote may be had upon the amendment now.

Mr. HARRIS. If unanimous consent is given, I will withdraw it, but not otherwise.

Mr. HILL. It seems to be given.

The VICE-PRESIDENT. Is there objection to the request of the Senator from New York? The Chair hears none. The question is on agreeing to the amendment of the Senator from New York.

Mr. HILL. On that I ask for the yeas and nays.

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

Mr. GALLINGER (when his name was called). I am paired with the junior Senator from Texas [Mr. MILLS], who has been called from the Chamber, and I withhold my vote. I should vote "yea" if he were present.

Mr. HANSBROUGH (when his name was called). I am paired with the junior Senator from Illinois [Mr. PALMER], and withhold my vote.

Mr. SMITH (when Mr. MCPHERSON'S name was called). I desire to state that my colleague [Mr. MCPHERSON] is absent from the Senate owing to illness. He is paired with the Senator from Vermont [Mr. MORRILL].

Mr. SMITH (when his name was called). I have a general pair with the junior Senator from Idaho [Mr. DUBOIS], who is absent.

The roll call was concluded.

Mr. CALL. I transfer my pair with the Senator from Massachusetts [Mr. LODGE] to the Senator from South Dakota [Mr. KYLE], and vote "nay."

Mr. MITCHELL of Oregon. I transfer my pair with the Senator from Wisconsin [Mr. VILAS] to the Senator from Nevada [Mr. JONES], and vote "yea."

Mr. MORGAN. I wish to announce my pair with the Senator from Pennsylvania [Mr. QUAY].

The result was announced—yeas 26, nays 34; as follows:

YEAS—26.

Aldrich,	Frye,	Manderson,	Sherman,
Allison,	Hale,	Mitchell, Oregon	Shoup,
Chandler,	Hawley,	Patton,	Squire,
Cullom,	Higgins,	Perkins,	Teller,
Davis,	Hill,	Platt,	Washburn.
Dixon,	Hoar,	Power,	
Dolph,	McMillan,	Proctor,	

NAYS—34.

Allen,	Coke,	Irby,	Ransom,
Bate,	Daniel,	Jarvis,	Roach,
Berry,	Faulkner,	Jones, Ark.	Turpie,
Blackburn,	George,	Lindsay,	Vest,
Blanchard,	Gibson,	McLaurin,	Voorhees,
Caffery,	Gorman,	Martin,	Walsh,
Call,	Gray,	Pasco,	White.
Camden,	Harris,	Peffer,	
Cockrell,	Hunton,	Pugh.	

NOT VOTING—25.

Brice,	Hansbrough,	Morgan,	Stewart,
Butler,	Jones, Nev.	Morrill,	Vilas,
Cameron,	Kyle,	Murphy,	Wilson,
Carey,	Lodge,	Palmer,	Wolcott.
Dubois,	McPherson,	Pettigrew,	
Gallinger,	Mills,	Quay,	
Gordon,	Mitchell, Wis.	Smith,	

So the amendment was rejected.

SENATORS FROM LOUISIANA.

Mr. BLANCHARD. Mr. President, I rise to a question of high privilege. I present the credentials of Hon. DONELSON CAFFERY, elected a Senator from the State of Louisiana by the General Assembly of that State now in session, for the unexpired term of the late Hon. Randall L. Gibson, ending March 3, 1895. I ask that the credentials may be read and that the Senator-elect be sworn in.

The credentials were read, and ordered to be filed.

Mr. CAFFERY. Mr. President, I rise to a question of privilege. I present the credentials of Hon. NEWTON C. BLANCHARD, elected by the Legislature of Louisiana a Senator from that State to fill the vacancy occasioned by the resignation of Hon. E. D. White, in the term ending March 3, 1897. I ask that the credentials be read.

The credentials were read and ordered to be filed.

The VICE-PRESIDENT. The Senators-elect will please come forward and receive the oath of office.

Mr. HOAR. I understand the paper which was last read was presented by Mr. CAFFERY of Louisiana, whose term of office under the appointment of the governor had expired as soon as the Senate was lawfully notified of the action of the State Legislature. So I suppose the gentleman who presented the paper is not now a member of the Senate. However, I am disposed to waive the objection in consequence of my high personal respect for the Senator-elect.

Mr. CAFFERY and Mr. BLANCHARD were escorted to the Vice-President's desk by Mr. PASCO and Mr. CAMDEN, and the oath prescribed by law having been administered to them they took their seats in the Senate.

VENTILATION OF SENATE CHAMBER.

Mr. HALE. Mr. President, I wish to call the attention of Senators to the most intolerable condition this Chamber has been in during the day from the intense heat in the room.

There has been a good breeze out of doors all the afternoon. It has penetrated the corridors; they are cool and comfortable; but no matter what beneficent influences reign outside, none of them ever get into this Chamber. Somebody is at fault; I do not know who, but somebody, and the Senate ought to find out who it is.

I have had some experience and some service in this Chamber, and I have never before known the distressing conditions which have prevailed at the present session. There is gross carelessness and a wanton disregard of the health of everyone in this Chamber at the hands of somebody who is responsible. Without saying anything further, having called attention to what I know must have occupied the mind of almost every other Senator, I leave the matter there, trusting that it will be looked into. We are entitled to some system by which we may obtain some good fresh air in this Chamber and we do not get it.

THE REVENUE BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 4864) to reduce taxation, to provide revenue for the Government, and for other purposes.

The VICE-PRESIDENT. The reading of the bill will be proceeded with.

Mr. McLAURIN. Last Saturday there were two amendments to the bill under consideration and adopted by the Senate, and as this is the last day on which a motion to reconsider can be entered, I desire to enter a motion to reconsider in each case. I do not desire that the motion shall be passed upon now by the Senate, because I do not wish to delay the reading of the bill, but I should like at this time to enter a motion to reconsider and have it acted on at the end of the reading of the bill. The first is a motion to reconsider the action of the Senate whereby the amendment was agreed to in line 13, page 172, by inserting after the words "United States" the words "not including the judges of the courts of the United States, but."

The next is a motion to reconsider the action of the Senate whereby it inserted in line 13, section 55, the follwing words, to wit:

Not including the salary of the President of the United States and the judges of the courts of the United States, but.

I desire to enter these motions.

Mr. HILL. Will the Senator from Mississippi allow me a moment?

Mr. McLAURIN. Certainly.

Mr. HILL. As far as the motion to reconsider the amendment excepting the President's salary is concerned, I desire to know whether the Senator voted in the affirmative?

Mr. McLAURIN. I will state candidly that I did not vote in the affirmative in either case, but as the yeas and nays were not taken, I have understood it to be the rule of all deliberative bodies (certainly in all deliberative bodies of which I have been a member) that that requirement does not apply. I am glad to say that I did not vote in the affirmative in either case.

Mr. HILL. It might be impossible to ascertain if the Senator stood upon his question of privilege and declined to answer as to whether he had or had not supported the affirmative or prevailing side, but the Senator frankly acknowledges that he voted against both amendments. I therefore raise the point of order that the motion to reconsider can not be entertained at this time. The Senator himself has no power to make the motion.

Mr. McLAURIN. After my frank avowal that I voted against the amendments? I suppose in any case a Senator would frankly avow his vote when he made a motion to reconsider.

Mr. HILL. Very well. I was going to suggest to the Senator, it is not a matter of very much consequence, because when the bill gets into the Senate those amendments can be reserved for a separate vote.

Mr. McLAURIN. I understand that, but I prefer to raise the question by a motion to reconsider for reasons that I do not feel it necessary to give.

As I was saying, any Senator will avow his vote on any motion to reconsider, but it has been the rule of all deliberative bodies of which I have any knowledge that the question can not be raised and is never raised where there was no record of the vote by yeas and nays. I do not think the point of order is well taken. I prefer to raise the question in this way. If the point of order is well taken I shall raise it in another way.

Mr. HILL. The Senator prefers to resort to the technical way, and of course he must be governed and adjudged by technicalities. I submit the question to the Senate that where a Senator acknowledges that he voted against a prevailing amendment he has no right to move to reconsider.

Mr. McLAURIN. I did not state that I preferred to raise the question in a technical way. I stated that I preferred to raise it in this way, by a motion to reconsider.

Mr. ALDRICH. I rise to a question of order.

The VICE-PRESIDENT. The Senator from Rhode Island will state his point of order.

Mr. ALDRICH. By the unanimous consent agreement under which we are proceeding the paragraphs and sections of the bill are to be taken up in their order, and certainly it is not in order for a Senator to move to reconsider a question which was acted upon at any time in the past. If that were the case there would be no end to this discussion; we would have questions of reconsideration pending all the time. I suggest to the Senator from Tennessee that this method of procedure would destroy absolutely the unanimous consent agreement upon which we are proceeding.

Mr. McLAURIN. If there is a unanimous consent agreement of that kind I shall not enter the motion, because I would be not only unwilling, but I would absolutely decline to violate any unanimous agreement that had been made by the Senate. If there is an agreement of that kind I was not aware of it.

Mr. HARRIS. There was a unanimous consent agreement that the bill should be read by paragraphs and the committee amendments disposed of first; that after that such amendments as Senators chose to offer should be received; and that we should proceed in that order. I did not hear the motion or suggestion of the Senator from Mississippi; but the Senator can avail himself of his opportunity hereafter, which will be just as ample as now. I hope he will not insist on going back to a part of the bill which has been passed upon as in Committee of the Whole.

Mr. McLAURIN. I ask the Senator from Tennessee if the unanimous consent agreement included an agreement not to enter any motions to reconsider. Is that his understanding of the agreement?

Mr. HARRIS. My understanding of it is that we shall proceed in regular order, reading paragraph after paragraph, and disposing of the committee amendments first and then such amendments as may be offered by Senators.

Mr. McLAURIN. I did not ask for the consideration of the motions to reconsider at this time. I merely wished to enter the motions.

Mr. HARRIS. The effect of going back to some past vote and asking to reconsider it now I think is hardly in keeping with the spirit and intent and purpose of the agreement that was made at the beginning.

Mr. McLAURIN. If that is the spirit of the unanimous consent agreement, I withdraw the motions to reconsider.

Mr. HILL. I move to amend section 55, on page 172, the second line, by inserting, after the word "whatever," the words:

Except rents from real estate.

Mr. President, I desire to say a few words upon this most important amendment. In the first place, I desire to ask the distinguished Senator from Missouri whether it is intended that rents from real estate shall be taxed under the provisions of the bill?

Mr. VEST. Unquestionably. There is a specific provision in the bill to that effect.

Mr. HILL. Where?

Mr. VEST. On page 170:

Whether said gains, profits, or income be derived from any kind of property, rents, interest, dividends, or salaries.

Mr. HILL. This brings up the question as to whether the method of taxation proposed by the terms of the bill is constitutional or not. A few moments ago it was said that real estate proper could not be taxed under an income tax; that if real estate is desired to be taxed it can only be done under a tax levied upon the respective States in proportion to their population, as required by the Constitution of the United States.

The point was suggested the other day that if real estate *per se* could not be taxed, the rental therefrom could not be taxed. I submit to the consideration of the Senate that a tax upon rentals of real estate is a tax of the use of real estate, that it is in substance a tax upon land, and is therefore within the prohibition of the Constitution.

This presents an entirely different question from that embraced in other portions of this section, whereby any income tax must be paid upon articles raised on the real estate. That must proceed upon the principle that the articles which are raised upon the real estate by being severed from the land become personal property and not a part and parcel of the real estate, and that it is to some extent immaterial where the articles were raised, so long as they belong to the party sought to be taxed. I am not clear that you have a right even to tax what is raised from real estate, the productions of real estate. I have, however, not seen fit to raise that question, but prefer to raise the clean, neat, legal question, whether you can tax the rental of real estate.

Mr. President, I need not reiterate the well-understood doctrine that the General Government can not do indirectly what

it can not do directly. A few moments ago the Senator from Missouri and the Senator from New Hampshire were disposed to acquiesce in the suggestion that real estate could not be included in a succession tax, because it was real estate, and although there was no tax *per se* upon real estate, yet there was a tax upon its transfer, which was virtually a tax upon real estate. I should have been prepared to say that their reasoning was sound and that they were right except for the fact that the Supreme Court of the United States had decided expressly the very point involved, and of course we must bow with all due respect to that decision.

But as an original proposition, I would be prepared to say that I think their position was the correct one, that it was virtually a tax upon real estate, and simply saying that it was a tax upon the transfer was an evasion of the real question involved.

But acquiescing in the decision of the Supreme Court, we are now presented with another question. Real estate can not be taxed directly by the General Government except upon a basis of population. Therefore a citizen owning some real estate, not using it himself, rents that property out. He derives not a certain proportion of its production. That would raise the other question. But he receives certain money rent; he receives certain sums for the use of that real estate.

Taxation of the use of real estate is taxation upon real estate. It is impossible to draw a distinction between the two. It seems to me this brings up the general question suggested so well and ably by the Senator from Massachusetts a few days ago. The rents of real estate issuing out of the land for money purposes being a part of the land, considered in some respects as personal property, in other respects in law regarded as realty, it strikes me are just as much protected as the real estate itself. The owner, instead of occupying it himself, leases out his property. The income that is derived from it arises out of the real estate. If the principal is exempt, the interest should be exempt.

You heard the argument made here the other day. I do not say that I entirely concurred in it. I simply suggested it, knowing what points would arise later in the discussion. If the bonds of the Government were simply themselves exempt, it was argued here with great force that whether the statute said that the interest should be exempt or not, the interest should be exempt upon the ground that it was so connected with the principal and so identified with it that the interest was to be exempted as a part of it.

I invoke that same argument, made here by several distinguished Senators, upon this point, and insist that the interest, or use, or rentals of real estate (and my amendment confines it to the single point of rentals) are exempt provided the real estate itself is exempt. This question is easily solved. Starting out with the position clear and distinct that the real estate can not be taxed directly, then that portion of the rents received from the real estate must be exempt also.

Mr. President, I do not propose to detain the Senate with any lengthy discussion of this question. It is a legal question. If we pursue the course suggested by the Senator from Kentucky, that we should leave all these constitutional questions to the court, then of course there should not be substantially any exemption. But it seems to me that the rentals of real estate should be treated upon the same plane and the same basis as real estate itself. While the States have the exclusive power to tax real estate, except under a particular form of taxation which is not this, the rentals should also go with that real estate and be entitled to the same privileges and the same exemptions.

I trust I have made myself clear on the point which I desired to make, and that is, of course, all I desire to do in the premises.

The PRESIDING OFFICER (Mr. MARTIN in the chair). The question is on the amendment of the Senator from New York [Mr. HILL].

Mr. HARRIS. If we can come to a vote upon the amendment without further debate, let the vote be taken. I rose to move to lay the amendment on the table.

Mr. HILL. I do not see that anyone desires to debate the question.

Mr. HARRIS. If we can come to a vote I shall not move to lay the amendment on the table.

Mr. HILL. I simply call for the yeas and nays on the amendment.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. GALLINGER (when his name was called). I announce my pair with the junior Senator from Texas [Mr. MILLS]. If he were present I should vote "yea."

Mr. MITCHELL of Oregon (when his name was called). I transfer my pair with the Senator from Wisconsin [Mr. VILAS] to the Senator from Nevada [Mr. JONES]. I vote "nay."

Mr. MITCHELL of Wisconsin (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CAREY], but I have reserved the right to vote to make a quorum. If there is not a quorum voting, I vote "nay."

Mr. PUGH (when Mr. MORGAN'S name was called). My colleague [Mr. MORGAN] is paired with the Senator from Pennsylvania [Mr. QUAY]. Both Senators are absent.

The roll call was concluded.

Mr. CALL. I transfer my pair with the Senator from Massachusetts [Mr. LODGE] to the Senator from South Dakota [Mr. KYLE], and vote "nay."

Mr. GORDON. The Senator from Washington [Mr. SQUIRE] is paired with the Senator from Virginia [Mr. DANIEL]. I transfer my pair with the Senator from Iowa [Mr. WILSON] to the Senator from Virginia [Mr. DANIEL]. I vote "nay."

Mr. SQUIRE. I vote "nay."

Mr. WHITE (after having voted in the negative). I observe that the Senator from Idaho [Mr. SHOUP] is not present; and I therefore withdraw my vote.

Mr. ALLEN. I desire to state that the Senator from South Dakota [Mr. KYLE] is necessarily detained from the Chamber to-day. He is paired with the Senator from Massachusetts [Mr. LODGE].

Mr. GEORGE (after having voted in the negative). I inquire if the Senator from Oregon [Mr. DOLPH] has voted?

The PRESIDING OFFICER. The Senator from Oregon has not voted.

Mr. GEORGE. I withdraw my vote.

The result was announced—yeas 19, nays 36; as follows:

YEAS—19.

Aldrich,	Dixon,	Hoar,	Platt,
Allison,	Frye,	McMillan,	Power,
Chandler,	Hale,	Manderson,	Proctor,
Cullom,	Hawley,	Patton,	Washburn.
Davis,	Hill,	Perkins,	

NAYS—36.

Allen,	Coke,	Jarvis,	Pettigrew,
Bate,	Faulkner,	Jones, Ark.	Pugh,
Berry,	Gibson,	Lindsay,	Roach,
Blackburn,	Gordon,	McLaurin,	Squire,
Blanchard,	Gorman,	Martin,	Teller,
Caffery,	Gray,	Mitchell, Oregon	Turpie,
Call,	Harris,	Mitchell, Wis.	Vest,
Camden,	Hunton,	Pasco,	Voorhees,
Cockrell,	Irby,	Peffer,	Walsh.

NOT VOTING—30.

Brice,	George,	Morgan,	Smith,
Butler,	Hansbrough,	Morrill,	Stewart,
Cameron,	Higgins,	Murphy,	Vilas,
Carey,	Jones, Nev.	Palmer,	White.
Daniel,	Kyle,	Quay,	Wilson,
Dolph,	Lodge,	Ransom,	Wolcott.
Dubois,	McPherson,	Sherman,	
Gallinger,	Mills,	Shoup,	

So the amendment was rejected.

The PRESIDING OFFICER. The Secretary will read the next section.

Mr. ALLISON. What has become of all the amendments following in section 55? Have they all been agreed to?

The PRESIDING OFFICER. The Chair is advised that all have been agreed to, except the proviso at the end of the section, which was temporarily passed over.

Mr. ALLISON. Does the Chair state that all the other committee amendments have been agreed to in section 55?

The PRESIDING OFFICER. The Chair is so advised.

Mr. ALLISON. The last amendment to the section was passed over, according to my recollection.

Mr. VEST. I think that was passed over at the suggestion of the Senator from Rhode Island [Mr. ALDRICH]. Can not we dispose of that now?

Mr. ALDRICH. I think the suggestion was made by the Senator from Iowa [Mr. ALLISON], that we should pass it over until we disposed of the corporation features of the bill.

Mr. VEST. Of course, if the subsequent provisions of the bill are defeated this will fall with them.

Mr. ALDRICH. Let the amendment be adopted pro forma.

Mr. ALLISON. The Senator from Missouri offered an amendment, I understood.

Mr. VEST. I modified the amendment, and that was agreed to.

Mr. ALLISON. I ask the Secretary to read the proviso as it now stands.

The Secretary read as follows:

Provided, also, That in computing the income of any person, corporation, company, or association there shall not be included the amount received from any corporation, company, or association as dividends upon the stock of such corporation, company, or association if the tax of 2 per cent has been paid upon its net profits by said corporation, company, or association as required by this act.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the committee, as modified.

The amendment as modified was agreed to.

The PRESIDING OFFICER. The reading of the bill will be proceeded with.

The Secretary read as follows:

SEC. 56. That it shall be the duty of all persons of lawful age having an income of more than $3,500 for the taxable year, computed on the basis herein prescribed, to make and render a list or return, on or before the day prescribed by law, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to the deputy collector of the district in which they reside, or to such officer or agent as the Commissioner of Internal Revenue may designate, of the amount of their income, gains, and profits, as aforesaid; and all guardians and trustees, executors, administrators, agents, receivers, and all persons acting in any other fiduciary capacity, shall make and render a list or return, as aforesaid, to the deputy collector of the district in which such person acting in a fiduciary capacity resides, or to such officer or agent as the Commissioner of Internal Revenue may designate, of the amount of income, gains, and profits of any minor or person for whom they act, but persons having less than $3,500 income are not required to make such report; and the deputy collector, or officer or agent designated by the Commissioner of Internal Revenue, shall require every list or return to be verified by the oath or affirmation of the party rendering it, and may increase the amount of any list or return if he has reason to believe that the same is understated; and in case any such person having a taxable income shall neglect or refuse to make and render such list and return, or shall render a false or fraudulent list or return, it shall be the duty of the deputy collector, or officer or agent designated by the Commissioner of Internal Revenue, to make such list, according to the best information he can obtain, by the examination of such person, or his books or accounts, or any other evidence, and to add 50 per cent as a penalty to the amount of the tax due on such list in all cases of willful neglect or refusal to make and render a list or return; and in all cases of a false or fraudulent list or return having been rendered to add 100 per cent as a penalty to the amount of tax ascertained to be due, the tax and the additions thereto as a penalty to be assessed and collected in the manner provided for in other cases of willful neglect or refusal to render a list or return or of rendering a false or fraudulent return: *Provided*, That any party, in his or her own behalf, or as such fiduciary, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, that he or she, or his or her ward or beneficiary, was not possessed of an income of $4,000, liable to be assessed according to the provisions of this act; or may declare that he or she has been assessed and paid an income tax elsewhere in the same year, under authority of the United States, upon his or her income, gains, or profits, as prescribed by law; and if the deputy collector, or other designated officer or agent, shall be satisfied of the truth of the declaration, shall thereupon be exempt from income tax in the said district for that year; or if the list or return of any party shall have been increased by the deputy collector, or other designated officer or agent, such party may exhibit his books and accounts, and be permitted to prove and declare, under oath or affirmation, the amount of income liable to be assessed; but such oaths and evidence shall not be considered as conclusive of the facts, and no deductions claimed in such cases shall be made or allowed until approved by the deputy collector, or other designated officer or agent. Any person feeling aggrieved by the decision of the deputy collector, or other designated officer or agent, in such cases may appeal to the collector of the district, and his decision thereon, unless reversed by the Commissioner of Internal Revenue, shall be final. If the person is dissatisfied with the decision of the collector he may submit his case, with all the papers, to the Commissioner of Internal Revenue for his decision, and if he desires to furnish the testimony of witnesses to prove any relevant facts he will also serve notice to that effect upon the Commissioner of Internal Revenue, as herein prescribed.

Such notice must state the time and place at which, and the officer before whom, the testimony will be taken; the name, age, residence, and business of the proposed witness, with the questions to be propounded to the witness, or a brief statement of the substance of the testimony he is expected to give.

The notice shall be delivered or mailed to the Commissioner a sufficient number of days previous to the day fixed for taking the testimony, to allow him, after its receipt, at least five days, exclusive of the period required for mail communication with the place at which the testimony is to be taken, in which to give, should he so desire, instructions as to the cross-examination of the proposed witness.

Whenever practicable, the affidavit or deposition shall be taken before a collector or deputy collector of internal revenue, in which case reasonable notice shall be given to the collector or deputy collector of the time fixed for taking the deposition or affidavit:

Provided further, That no penalty shall be assessed upon any person for such neglect or refusal or for making or rendering a false or fraudulent return, except after reasonable notice of the time and place of hearing, to be regulated by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, so as to give the person charged an opportunity to be heard.

The Committee on Finance reported to amend the section, on page 174, in line 20, after the word "day," to strike out "prescribed" and insert "provided;" in line 21, after the words "may be," to strike out "prescribed" and insert "directed;" in line 23, before the word "deputy," to insert "collector or a;" in line 3, on page 175, after the word "persons," to insert "or corporations;" in the same line, before the word "fiduciary," to strike out "other;" in line 5, before the words "deputy collector," to insert "collector or a;" in line 6, after the word "person," to insert "or corporation;" in line 7, after the word "resides," to insert "or does business;" in line 12, before the words "deputy collector," to insert "collector;" in line 19, after the words "render a," to insert "willfully;" in line 21, before the word "deputy," to insert "collector;" in line 24, after the word "person," to strike out "or his books or accounts;" on page 176, line 4, after the words "cases of a," to insert "willfully;" in line 11, before the words "in his," to strike out "party" and insert "person, or corporation;" in the same line, after the word "his," to strike out "or;" in the same line, after the word "her," to insert "or its;" in line 15, after the word "he," to strike out "or;" in line 16, before the word "ward," to insert "or its;" in line 19, after the word "he," to strike out "or;" in the same line, after the word "she," to insert "or it, or his, her, or its ward or benificiary"——

Mr. VEST. There is a misprint there in the spelling. The word "benificiary" should be "beneficiary."

The PRESIDING OFFICER. That verbal correction will be made. The reading of the amendments will proceed.

The SECRETARY. In line 20, before the word "pay," to insert "has;" after the word "upon," at the end of line 21, to insert "all;" in the same line, before the word "her," to strike out "or," and after the word "her" to insert "or its;" in the same line, after the word "profits," to insert "and upon all the income, gains, or profits for which he, she, or it is liable as such fiduciary;" in line 25, before the word "deputy," to insert "collector;" on page 177, line 1, after the word "declaration," to insert "such person or corporation;" after the word "any," at the end of line 3, to strike out "party" and insert "person or corporation, company, or association;" in line 5, after the words "increased by the," to insert "collector;" after the word "such," at the end of line 6, to strike out "party" and insert "person or corporation, company or association;" in line 8, after the word "may," to strike out "exhibit his books and accounts, and;" in the same line, after the word "prove," to strike out "and declare, under oath or affirmation;" in line 11, before the word "shall, to strike out "oaths and evidence" and insert "proof;" in line 13, before the word "deputy," to insert "collector;" in line 14, after the word "person," to insert "or company, corporation, or association;" in line 17, before the word "officer," to strike out "other designated" and insert "any;" in the same line, after the word "agent," to insert "other than the collector;" in line 20, after the word "if," to strike out "the person is;" in line 21, after the word "collector," to strike out "he may" and insert "such person or corporation, company or association;" in line 23, before the word "submit," to insert "may," and after "submit," to strike out "his" and insert "the;" on page 178, line 1, before the word "furnish," to strike out "if he desires to" and insert "may;" in line 2, after the word "facts," to strike out "he will also serve" and insert "having served;" in line 5, after the word "notice," to strike out "must" and insert "shall;" in line 12, after the word "Commissioner," to insert "of Internal Revenue;" in line 24, after the word "person," to insert "or corporation, company, or association;" on page 179, line 1, after the words "rendering a," to insert "willfully;" in line 3, after the words "to be," to strike out "regulated" and insert "prescribed;" and in line 4, after the words "internal Revenue," *to strike out "with the approval of* the Secretary of the Treasury, so as to give the person charged an opportunity to be heard;" so as to make the section read:

SEC. 56. That it shall be the duty of all persons of lawful age having an income of more than $3,500 for the taxable year, computed on the basis herein prescribed, to make and render a list or return, on or before the day provided by law, in such form and manner as may be directed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to the collector or a deputy collector of the district in which they reside, or to such officer or agent as the Commissioner of Internal Revenue may designate, of the amount of their income, gains, and profits, as aforesaid; and all guardians and trustees, executors, administrators, agents, receivers, and all persons or corporations acting in any fiduciary capacity, shall make and render a list or return, as aforesaid, to the collector or a deputy collector of the district in which such person or corporation acting in a fiduciary capacity resides or does business, or to such officer or agent as the Commissioner of Internal Revenue may designate, of the amount of income, gains, and profits of any minor or person for whom they act, but persons having less than $3,500 income are not required to make such report; and the collector, deputy collector, or officer or agent designated by the Commissioner of Internal Revenue, shall require every list or return to be verified by the oath or affirmation of the party rendering it, and may increase the amount of any list or return if he has reason to believe that the same is understated; and in case any such person having a taxable income shall neglect or refuse to make and render such list and return, or shall render a willfully false or fraudulent list or return, it shall be the duty of the collector, deputy collector, or officer or agent designated by the Commissioner of Internal Revenue, to make such list, *according to the best information* he can obtain, by the examination of such person, or any other evidence, and to add 50 per cent as a penalty to the amount of the tax due on such list in all cases of willful neglect or refusal to make and render a list or return; and in all cases of a willfully false or fraudulent list or return having been rendered to add 100 per cent as a penalty to the amount of tax ascertained to be due, the tax and the additions thereto as a penalty to be assessed and collected in the manner provided for in other cases of willful neglect or refusal to render a list or return, or of rendering a false or fraudulent return: *Provided*, That any person or corporation, in his, her, or its own behalf, or as such fiduciary, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, that he, she, or his or her or its ward or beneficiary, was not possessed of an income of $4,000, liable to be assessed according to the provisions of this act; or may declare that he, she, or it, or his, her, or its ward or beneficiary has been assessed and has paid an income tax elsewhere in the same year under authority of the United States, upon all his, her, or its income, gains, or profits, and upon all the income, gains, or profits for which he, she, or it is liable as such fiduciary, as prescribed by law; and if the collector, deputy collector, or other designated officer or agent shall be satisfied of the truth of the declaration, such person or corporation shall thereupon be exempt from income tax in the said district for that year; or if the list or return of any person or corporation, company, or association shall have been increased by the collector, deputy collector, or other desig-

nated officer or agent, such person or corporation, company, or association may be permitted to prove the amount of income liable to be assessed; but such proof shall not be considered as conclusive of the facts, and no deductions claimed in such cases shall be made or allowed until approved by the collector, deputy collector, or other designated officer or agent. Any person or company, corporation, or association feeling aggrieved by the decision of the deputy collector, or any officer or agent other than the collector, in such cases may appeal to the collector of the district, and his decision thereon, unless reversed by the Commissioner of Internal Revenue, shall be final. If dissatisfied with the decision of the collector, such person or corporation, company, or association may submit the case, with all the papers, to the Commissioner of Internal Revenue for his decision, and may furnish the testimony of witnesses to prove any relevant facts, having served notice to that effect upon the Commissioner of Internal Revenue, as herein prescribed.

Such notice shall state the time and place at which, and the officer before whom, the testimony will be taken; the name, age, residence, and business of the proposed witness, with the questions to be propounded to the witness, or a brief statement of the substance of the testimony he is expected to give.

The notice shall be delivered or mailed to the Commissioner of Internal Revenue a sufficient number of days previous to the day fixed for taking the testimony, to allow him, after its receipt, at least five days, exclusive of the period required for mail communication with the place at which the testimony is to be taken, in which to give, should he so desire, instructions as to the cross-examination of the proposed witness.

Whenever practicable, the affidavit or deposition shall be taken before a collector or deputy collector of internal revenue, in which case reasonable notice shall be given to the collector or deputy collector of the time fixed for taking the deposition or affidavit:

Provided, further, That no penalty shall be assessed upon any person or corporation, company, or association, for such neglect or refusal or for making or rendering a willfully false or fraudulent return, except after reasonable notice of the time and place of hearing, to be prescribed by the Commissioner of Internal Revenue.

Mr. ALLISON. Before we pass from this section, I suggest to the Senator from Missouri that in line 5, on page 179, the words he proposes to strike out, "with the approval of the Secretary of the Treasury," are the important ones that I suppose the Senator desires to strike out, and I ask him to allow the remaining words to stand.

Mr. VEST. I have no objection to that.

The PRESIDING OFFICER. The amendment to the amendment will be agreed to in the absence of objection. The question recurs on agreeing to the amendment as amended.

The amendment as amended was agreed to.

Mr. HOAR. I should like to ask the Senator from Missouri whether the Democratic agreement to take this bill as it is, no matter what anybody may think of it, extends to the spelling in line 19, on page 176, where the word "beneficiary" is spelled "b-e-n-i-fi-c-i-a-r-y."

Mr. VEST. That has been corrected. We knew the Senator from Massachusetts would object, and so we corrected it in advance.

Mr. HOAR. I supposed the Democratic caucus had probably adopted this spelling of the word.

Mr. VEST. Oh, no; we knew the Senator would find it out, and so we corrected it.

Mr. ALLEN. I offer an amendment to the section after line 10, on page 178.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. At the end of line 10, on page 178, it is proposed to insert:

Provided, That the Government may at the same time and place take testimony to rebut the testimony of the witnesses examined by the person taxed.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Nebraska.

Mr. HOAR. Why should not the Government be at liberty to take testimony at some other place, if it be more convenient?

Mr. ALLEN. I simply offered the amendment because this part of the section providing for the taking of testimony provides for the taking of evidence of witnesses on behalf of the person who is delinquent. I think the Government ought at the same time and place and before the same person have the right to take testimony to rebut the evidence taken by the tax debtor.

Mr. HOAR. I have not considered this question and it is not, I suppose, a very important matter, but it is hardly just to the Government to put it into the power of the taxed person to select the magistrate, to fix the time, and to fix the place where not only his own testimony shall be taken, but the Government testimony shall be taken. There is nothing that requires it to be done in the district. Suppose some taxpayer in the city of New Orleans should notify the Government official to go down there and take testimony about his property in Massachusetts; thereupon not only the testimony has to be taken there, but all the rebutting testimony. I leave it to the Senator from Missouri to look after this matter; but it strikes me that it is hardly a just arrangement.

Mr. ALLEN. I realize the force of the suggestion of the Senator from Massachusetts; but I think this statute ought to be broad enough to permit the Government to take testimony in rebuttal of the testimony of the tax delinquent at any time. I am perfectly willing to have this amendment so broadened that the Government may take the testimony before the same person at the same time and place, or before any other qualified officer at any proper time and place, upon five days' notice.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Nebraska.

Mr. HALE. I suggest to the Senator from Missouri that if he proposes to agree to this amendment he have it carefully prepared, so that if there is to be an examination, with counsel upon each side and at more than one place, it shall be so provided that at any hearing or examination due notice may be given to the other side; otherwise it would be a disadvantage, perhaps, at one time to the Government and at another time to the party taxed, if the testimony should be taken without due notice. The Senator from Missouri and the Senator from Nebraska can prepare the phraseology, and see that it is adapted to the subsequent sections.

Mr. VEST. The bill sufficiently provides for the protection of the citizen. As I understand the Senator from Nebraska, he is under the impression that the Government ought to be permitted to take testimony at the same time and place. The provision in the bill now requires that a sufficient notice shall be given to the officials of the Government so that they can be there and subject the witnesses to cross-examination. I have no objection to the amendment.

Mr. HALE. The Senator from Massachusetts proposes that the Government may have an opportunity to take testimony at some other time and place. If that be granted, clearly, therefore, it ought to be included that the other side shall have notice of that examination. My suggestion is only to the effect that the provision be carefully examined by the Senator from Missouri before he agrees to it becoming part of the proposed law.

Mr. CHANDLER. Mr. President, I desire to fortify the suggestion of the Senator from Maine [Mr. HALE] by calling attention to the fact that the amendment of the Senator from Nebraska [Mr. ALLEN] says that depositions may be taken by the Government at the same time and place, but it does not appear to require that notice shall be given of the names of witnesses. The provision as to the taxpayer requires him to state the time and place, "the name, age, residence, and business of the proposed witness." That is, of course, so that the Government may know what it is to meet. If the Government is to take testimony at the same time, it ought to give a like notice.

Mr. HALE. And under like restrictions.

Mr. CHANDLER. And there should be the same restrictions upon the Government.

While I think the provision moved by the Senator from Nebraska is well enough, it should certainly not give the Government the right to appear at the time of the taking of the deposition of any witness, or any number of witnesses, and take their testimony, without having previously given to the taxpayer the same notice which the taxpayer was compelled to give the Government.

Mr. ALLEN. I drew this amendment very hastily while sitting at my desk when the Secretary was reading the bill. I did not take the time to draw it with as much care as I should have done if this matter had come to my attention before. I introduced it more for the purpose of putting the committee on notice of the fact that this proposed law might be evaded, and that it would work a practical injustice to the Government.

It strikes me that it is absurd to say that a person who is assessed under this law and who is dissatisfied with the assessment, might appeal to the collector of internal revenue and take testimony in support of his appeal, and at the same time the Government be powerless to rebut the testimony taken or to introduce any new facts which might be essential to establish the truth. I take it for granted that, while my amendment is imperfect, having been drawn so hastily, the committee are put upon their notice, and that they will draft the proper amendment and submit it to us.

Mr. VEST. We considered these provisions of the bill very carefully, and I want to say now that I think if the Senator from Nebraska will examine the whole section carefully he will be satisfied that it is in very good shape as it now stands.

These provisions apply to a case where the collector increases the amount of the return made by any taxpayer, and if the taxpayer is dissatisfied with the action of the collector, he can then give notice, fix a day, and bring his witnesses to convince the collector that he has not diminished the amount of his return, but has made it correctly.

It is a question for the collector to be satisfied in regard to what has been done by himself. It is brought before him. It is not a proceeding in court of a plaintiff and defendant in the strict sense or in the proper signification of the term. It simply applies to a case where the collector for some reason comes to

the conclusion that the return is not a proper one and he increases it.

This practice obtains in a great many States. In my own State, for instance, where a taxpayer has not made a proper return of his property the officer, if satisfied that such is the case, that there has been some suppression of the truth or even some mistake, increases the amount of the assessment; and then we have a day there for correcting assessments, upon which the party may appear, bring his witnesses, and be sworn himself, and convince the officer, if he can, that the assessment is correct both as to quantity and as to value. That is all of it. I think there are sufficient safeguards here for the Government. The material point is to guard the citizen. He will have under the provisions of this proposed law every right that can possibly be conceived of under the circumstances.

Mr. ALLEN. I do not propose to be captious about this matter at all. I am well satisfied that the amendment I offered, or one similar to it, but probably broader, ought to be adopted if this bill becomes a law. As I understand the bill, any person who refuses to make a proper return to the assessor, or who willfully neglects to make that return, the assessor is authorized to assess him, and to make a list of his property from the best information he may be able to obtain. Then the delinquent is permitted to appeal from that assessment to the collector of internal revenue, and take evidence in support of his appeal.

I take it for granted that the man who will not make an honest return, or who will not make any return at all, proposes to defraud the Government. If he has an opportunity to make a return and will not make it, or if he has an opportunity to make a return and makes a fraudulent return, and compels the assessor of internal revenue to rely upon his own judgment and independent sources of information, I take it for granted that that kind of a man will pursue his fraudulent purposes further, and undertake to defeat the Government in getting a corrected return of his property and his assessable income.

If he is permitted to take testimony before some officer, and then appeal from that officer to the Bureau of Internal Revenue at Washington, I take it for granted that the Government may be defeated and will be defeated in a majority of instances in the collection of the proper revenue from that man by that merely *ex parte* method of doing business, and that fairness to this Government and good faith in the execution of this proposed law requires that the Government should have ample power to show that that man has made a fraudulent or an unjust return, and ample power to rebut all testimony that he may have produced; and, Mr. President, more than that, ample power on the part of the Government to introduce independent testimony showing the fact, independent of this evidence, that the assessment ought to be raised.

This proposed law, in my judgment, is absolutely harmless against a man who intends to defraud the Government with these provisions standing in it alone. It strikes me that there can be no glossing over of this matter. Every man who has had experience as a lawyer or who has had experience in the assessment of revenue understands full well how these laws can be evaded.

Mr. VEST. Let the amendment be read.

The PRESIDING OFFICER. The amendment proposed by the Senator from Nebraska will be stated.

The SECRETARY. At the end of line 10, on page 178, it is proposed to insert:

Provided, That the Government may at the same time and place take testimony to rebut the testimony of the witnesses examined by the person taxed.

Mr. VEST. I have no objection to that.

Mr. CHANDLER. I move to amend the amendment by inserting the words "upon like notice" after the words "take testimony."

Mr. HARRIS. I do not think there can be any objection to that.

The PRESIDING OFFICER. The amendment of the Senator from New Hampshire to the amendment of the Senator from Nebraska will be stated.

The SECRETARY. After the words "take testimony," in line 3 of the amendment, it is proposed to insert "upon like notice;" so as to read:

Provided, That the Government may at the same time and place take testimony, upon like notice, to rebut the testimony of the witnesses examined by the person taxed.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The PRESIDING OFFICER. The Secretary will proceed with the reading of the bill.

Mr. HILL. Mr. President, of course the same understanding exists with reference to all these sections, that at the end I may move to strike them all out.

Mr. VEST. Certainly.

Mr. HARRIS. That has been understood from the beginning.

The Secretary read as follows:

SEC. 57. The taxes on incomes herein imposed shall be due and payable on or before the 1st day of July in each year; and to any sum or sums annually due and unpaid after the 1st day of July as aforesaid, and for ten days after notice and demand thereof by the collector, there shall be levied, in addition thereto, the sum of 5 per cent on the amount of taxes unpaid, and interest at the rate of 1 per cent per month upon said tax from the time the same became due, as a penalty, except from the estates of deceased, insane, or insolvent persons.

The Committee on Finance reported an amendment to the section, in line 14, after the word "same," to strike out "became" and insert "becomes;" so as to read:

And interest at the rate of 1 per cent per month upon said tax from the time the same becomes due as a penalty, etc.

The amendment was agreed to.

Mr. HOAR. Is there anywhere in this bill a provision for exemption in the case of accident or mistake from this heavy penalty of 12 per cent, and, in addition, 5 per cent?

Mr. VEST. Oh, yes; there is a provision here which gives the Secretary of the Treasury ample power to correct any mistake or to remit any penalty.

Mr. HOAR. I supposed there would be such a provision somewhere.

Mr. VEST. The last provision at the close of the income tax.

The PRESIDING OFFICER. The reading of the bill will be resumed.

The Secretary read as follows:

SEC. 58. That every nonresident person owning property in the United States or receiving income from the United States shall pay a tax on the income received as if resident in the United States. Any such nonresident may also receive the benefit of the exemption by filing with the deputy collector of any district a true list of all his property in the United States, or sources of income, in the same manner as a resident is required to do. In computing income for purpose of exemptions he shall include all income from every source, but shall only pay on that part of the income which is derived from any source in the United States. In case such nonresident fails to file such statement, then the deputy of each district shall collect the tax on the income derived from his district, making no allowance for exemptions, and all property belonging to such nonresident shall be liable to distraint for tax: *Provided*, That nonresident corporations shall be subject to same laws as to tax as resident corporations, and the collection of the tax shall be made in same manner as provided for collections of taxes against nonresident persons.

The Committee on Finance reported an amendment after the words "Sec. 58," to strike out "that every nonresident person owning property in the United States or receiving income from the United States shall pay a tax on the income received as if resident in the United States;" in line 20, after the word "any," to strike out "such;" in the same line, after the word "nay," to strike out "also;" in line 21, after the words "benefit of the," to strike out "exemption" and insert "exemptions hereinbefore provided for;" in line 23, after the word "property," to strike out "in the United States or" and insert "and;" in line 24, after the word "income," to insert "in the United States;" in the same line, after the words "United States," to strike out "in the same manner as" and insert "and complying with the provisions of section 56 of this act as if;" on page 180, line 1, after the word "residents," to strike out "is required to do;" in line 2, after the word "income," to strike out "for purpose of exemptions;" in line 6, after the word "statement," to strike out "then;" in the same line, before the words "of each district," to strike out "deputy" and insert "collector;" in line 7, after the word "from," to insert "property situated in;" in line 8, after the word "district," to insert "subject to income tax;" in line 11, before the word "same," to insert "the;" and in line 12, before the word "same," to insert "the;" so as to make the section read:

SEC. 58. Any nonresident may receive the benefit of the exemptions hereinbefore provided for by filing with the deputy collector of any district a true list of all his property and sources of income in the United States, and complying with the provisions of section 56 of this act as if a resident. In computing income he shall include all income from every source, but shall only pay on that part of the income which is derived from any source in the United States. In case such nonresident fails to file such statement, the collector of each district shall collect the tax on the income derived from property situated in his district, subject to income tax, making no allowance for exemptions, and all property belonging to such nonresident shall be liable to distraint for tax: *Provided*, That nonresident corporations shall be subject to the same laws as to tax as resident corporations, and the collection of the tax shall be made in the same manner as provided for collections of taxes against nonresident persons.

Mr. HOAR. Should not the section be amended by inserting after the word "nonresident," in line 20, the words "but not a citizen of the United States," so as to make it conform to what has previously been done?

Mr. ALLISON. Should not the amendment come in on the next page?

Mr. HOAR. Yes; in line 3, on page 180, after the word "but," I move to insert "unless he be a citizen of the United States, he."

Mr. VEST. That is the meaning of it as it stands.

Mr. HOAR. These words should be inserted.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 180, line 3, after the word "but," it is proposed to insert "unless he be a citizen of the United States, he;" so as to read:

In computing income he shall include all income from every source, but, unless he be a citizen of the United States, he shall only pay on that part of his income which is derived from any source in the United States.

The amendment was agreed to.

The PRESIDING OFFICER. The reading of the bill will be resumed.

The SECRETARY. The Committee on Finance propose to strike out sections 59, 60, and 61, as follows:

SEC. 59. That there shall be levied and collected a tax of 2 per cent on all dividends in scrip or money thereafter declared due, wherever and whenever the same be declared payable to stockholders, policy holders, or depositors or parties whatsoever, including nonresidents, whether citizens or aliens, as part of the earnings, income, or gains of any bank, trust company, savings institution, and of any fire, marine, life, inland insurance company, either stock or mutual, under whatever name or style known or called in the United States or Territories, whether specially incorporated or existing under general laws, and on all undistributed sums, or sums made or added during the year to their surplus or contingent funds; on all dividends, annuities, or interest paid by corporations or associations organized for profit by virtue of the laws of the United States or of any State or Territory, by means of which the liability of the individual stockholders is in anywise limited, in cash, scrip, or otherwise; and the net income of all such corporations in excess of such dividends, annuities, and interest, or from any other sources whatever; and said banks, trust companies, savings institutions, and insurance companies, and other companies, and all other corporations, shall pay the said tax, and are hereby authorized and required to deduct and withhold from all payments made on account of any dividends or sums of money that may be due and payable as aforesaid, the said tax of 2 per cent. And a list or return shall be made and rendered to the deputy collector, or other officer or agent designated by the Commissioner of Internal Revenue, within thirty days after any dividends or sums of money become due or payable as aforesaid; and said list or return shall contain a true and faithful account of the amount of taxes as aforesaid; and there shall be annexed thereto a declaration of the president, cashier, or treasurer, or the principal accounting officer of the bank, trust company, savings institution, or insurance company, or other corporation, under oath or affirmation, in form and manner as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, that the same contains a true and faithful account of the taxes as aforesaid. And for any default in the making or rendering of such list or return, with such declaration annexed, the bank, trust company, savings institution, or insurance company, or other corporation making such default, shall forfeit as a penalty the sum of $1,000; and in case of any default in making or rendering said list or return, or of any default in the payment of the tax as required, or any part thereof, the assessment and collection of the tax and penalty shall be in accordance with the general provisions of law in other cases of neglect and refusal: *Provided*, That the tax upon the dividends of life insurance companies shall not be deemed due until such dividends are payable; nor shall the portion of premiums returned by mutual life insurance companies to their policy holders, nor the interest allowed or paid to the depositors in savings banks or savings institutions, be considereds a dividends: *And provided further*, That this act shall not apply to the income or dividends received or paid by such building and loan associations as are organized under the laws of any State or Territory, and which do not make loans except to shareholders within the State where such associations have been organized. For the purposes of this act "dividend" shall include every payment in the way of division among the owners of the stock or capital of a corporation, or persons entitled to a share of its profits or income, whether such dividends are paid out of profits or not, or are paid in cash or otherwise.

SEC. 60. That any bank, building association, or other banking institution which shall neglect or omit to make dividends or additions to its surplus or contingent fund as often as once in six months shall make a list or return in duplicate, under oath or affirmation of the president or cashier, or principal accounting officer, to the deputy collector of the district in which it is located, or to the officer or agent designated by the Commissioner of Internal Revenue, on the 1st day of January and July in each year, or within thirty days thereafter, of the amount of profits which have accrued or been earned or received by said bank during the six months next preceding said 1st day of January and July; and shall present one of said lists or returns and pay to the collector of the district a duty of 2 per cent on such profits, and in case of default to make such list or return and payment within the thirty days, as aforesaid, shall be subject to the provisions of the foregoing section of this act: *Provided*, That when any dividend is made which includes any part of the surplus or contingent fund of any bank, trust company, savings institution, insurance or railroad company, which has been assessed and the duty paid thereon, the amount of duty so paid on that portion of the surplus or contingent fund may be deducted from the duty on such dividend.

SEC. 61. That any railroad, canal, turnpike, canal navigation or slack-water company, and any telephone, telegraph, electric light and gas company, water company, and any street railway company, or other corporation, indebted for any money for which bonds or other evidence of indebtedness have been issued, payable in one or more years after date, upon which interest is stipulated to be paid, or coupons representing the interest, or any such company or other corporation that may have declared any dividend in scrip or money due or payable to its stockholders, including nonresidents, whether citizens or aliens, as part of the earnings, profits, income, or gains of such company, and all profits of such company or corporation carried to the account of any fund, or used for construction, shall be subject to and pay a tax of 2 per cent on the amount of all such interest, or coupons, dividends, or profits, whenever and wherever the same shall be payable, and to whatsoever party or person the same may be payable, including nonresidents, whether citizens or aliens, and said companies are hereby authorized to deduct and withhold from all payments on account of any interest, or coupons and dividends, due and payable as aforesaid, the tax of 2 per cent; and the payment of the amount of said txa so deducted from the interest or coupons or dividends, and certified by the president or treasurer or other principal accounting officer of said company or corporation, shall discharge said company or corporation from that amount of the dividend or interest or coupon on the bonds or other evidences of their indebtednesss so held by any person or party whatever, except where said companies or corporations may have contracted otherwise. And a list or return shall be made and rendered to the deputy collector, or other officer or agent designated by the Commissioner of Internal Revenue, on or before the 10th day of the month following that in which said interest, coupons, or dividends become due and payable, and as often as every six months; and said list or return shall contain a true and faithful account of the amount of tax, and there shall be annexed thereto a declaration of the president or treasurer or other principal accounting officer of the company or corporation under oath or affirmation, in form or manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful account of said tax. And for any default in making or rendering such list or return, with the declaration annexed, or of the payment of the tax as aforesaid, the company or corporation making such default shall forfeit as a penalty the sum of $500 and double the amount of the tax; and in case of any default in making or rendering said list or return, or of the payment of the tax or any part thereof, as aforesaid, the assessment and collection of the tax and penalty shall be made according to the provisions of law in other cases of neglect or refusal: *Provided*, That whenever any of the companies or corporations mentioned in this section shall be unable to pay all of the interest on their indebtedness, and shall in fact fail to pay all of such interest, that in such cases the tax levied by this section shall be paid to the United States only on the amount of interest which the company pays or is able to pay.

And in lieu thereof to insert:

SEC. 59. That there shall be assessed, levied, and collected except as herein otherwise provided, a tax of 2 per cent annually on the net profits or income above actual operating and business expenses, losses, and interest on bonded and other indebtedness of all banks, banking institutions, trust companies, saving institutions, fire, marine, life, and other insurance companies, railroad, canal, turnpike, canal navigation, slack water, telephone, telegraph, express, electric light, gas, water, street railway companies, and all other corporations, companies, or associations doing business for profit in the United States, no matter how created and organized.

That said tax shall be paid on or before the 1st day of July in each year; and if the president or other chief officer of any corporation, company, or association, or in the case of any foreign corporation, company, or association the resident manager or agent, shall neglect or refuse to file with the collector of the internal-revenue district in which said corporation, company, or association shall be located or be engaged in business, a statement verified by his oath or affirmation, in such form as shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, showing the amount of net profits or income received by said corporation, company, or association during the whole calendar year last preceding the date of filing said statement as hereinafter required, the corporation, company, or association making default shall forfeit as a penalty the sum of $1,000, and 2 per cent on the amount of taxes due, for each month until the same is paid, the payment of said penalty to be enforced as provided in other cases of neglect and refusal to make return of taxes under the internal-revenue laws.

The net profits or income of all corporations, companies, or associations shall include the amounts paid to shareholders, or carried to the account of any fund, or used for construction, enlargement of plant, or any other expenditure or investment representing the net annual profits made or acquired by said corporations, companies, or associations.

That nothing herein contained shall apply to States, counties, or municipalities; nor to corporations, companies, or associations organized and conducted solely for charitable, religious, or educational purposes, including fraternal beneficiary societies, orders, or associations, operating upon the lodge system and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, and associations, and dependents of such members; nor to the stocks, shares, funds, or securities held by any fiduciary or trustee of charitable, religious, or educational purposes; nor to building and loan associations or companies which make loans only to their shareholders; nor to such savings banks, savings institutions, or societies as shall, first, have no stockholders or members except depositors and no capital except deposits; secondly, shall not receive deposits to an aggregate amount in any one year of more than $1,000 from the same depositor; thirdly, shall not allow an accumulation or total of deposits by any one depositor exceeding $10,000; fourthly, shall actually divide and distribute to its depositors, ratably to deposits, all the earnings over the necessary and proper expenses of such bank, institution, or society, except such as shall be applied to surplus; and fifthly, shall not possess in any form a surplus fund exceeding 10 per cent of its aggregate deposits.

Nor to any insurance company or association which conducts all its business solely upon the mutual plan, and only for the benefit of its policy holders or members, and having no capital stock and no stock or shareholders, and holding all its property in trust and in reserve for its policy holders or members; nor to that part of the business of any insurance company having a capital stock and stock and shareholders, which is conducted on the mutual plan, separate from its stock plan of insurance, and solely for the benefit of the policy holders and members insured on said mutual plan, and holding all the property belonging to and derived from said mutual part of its business in trust and reserve for the benefit of its policy holders and members insured on said mutual plan.

Mr. VEST. I offer the amendment which I send to the desk to the first part of the section.

The PRESIDING OFFICER. The amendment will be stated.

Mr. VEST. I move to strike out the words down to the words "expenses of," in line 16 of the print I have, beginning "That there shall be." I desire to have the words I propose to insert read.

The Secretary read as follows:

That there shall be assessed, levied, and collected, except as herein otherwise provided, a tax of 2 per cent annually on the net profits or income above actual operating and business expenses, losses, and interest on bonded and other indebtedness.

The PRESIDING OFFICER. The Chair will state to the Senator from Missouri that the amendment proposed by him is embodied in the amendment which has just been read by the Secretary.

Mr. HILL. Have these amendments been printed?

Mr. VEST. Substantially the amendment which has just been read has been printed. I have changed one or two words in it, and the Secretary read the amendment as if a part of the text of the bill, which has created confusion. If he had read the text of the bill as it was, and then taken up the amendments, we could have proceeded regularly with them, but he has read the amendments as an original part of the text.

Mr. ALLISON. Has this amendment been agreed to?

Mr. ALDRICH. I suggest to the Senator that the paragraph in relation to bondholders or holders of certificates of indebtedness ought to be stricken out. Its object is provided for in other ways.

Mr. VEST. I had rather not strike out the whole paragraph, because it is entirely consistent now with other provisions of the bill.

Mr. ALDRICH. They can only be explanatory and might be confusing. It is entirely covered by the first of these paragraphs.

Mr. VEST. It does no harm in the bill.

Mr. ALDRICH. It might do a great deal of harm.

Mr. VEST. I now desire to offer an amendment which I did not hear the Secretary read, to insert at the end of line 11, of section 59, what I send to the desk.

The PRESIDING OFFICER. The Secretary advises the Chair that the same amendment was read at the end of the section.

Mr. VEST. That is what created the confusion. That was not a part of the text of the bill. It is an amendment proposed by the committee, and ought to have been read as an amendment. However, as it has all been read it may as well be acted on.

The PRESIDING OFFICER. The Chair understood the amendment proposed by the Senator from Missouri was in the nature of a substitute for sections 59, 60, and 61, and it was so read by the Secretary, embodying all the amendments which the Senator from Missouri has indicated.

Mr. PLATT. The Secretary read all the amendments which have been proposed?

Mr. VEST. As part of the text, and that has created confusion.

Mr. PLATT. I ask unanimous consent that the section as first read by the Secretary be considered as adopted.

Mr. ALLISON. Before that is done, I desire to amend some portions of it.

Mr. PLATT. Unless that can be carried out, I think the amendment regarding savings banks had better be read and adopted, and also the amendment regarding insurance companies.

Mr. JONES of Arkansas. That was read as a part of the amendment as submitted from the desk.

Mr. FRYE. And it has been adopted.

Mr. PLATT. It has not been adopted yet.

Mr. ALDRICH. But it is all open to amendment, as I understand.

Mr. VEST. If we had read the text of the bill as originally offered and taken up the amendments offered *seriatim*, there would not have been any trouble, and the amendments would be as if they were in the bill. I do not go by the new print, which is simply confusing, but I take the original bill and proposed to offer the amendments at their proper places.

Mr. ALDRICH. I suggest that the amendment as read by the Secretary at first be considered as the amendment of the committee and open to amendment.

Mr. VEST. I have no objection to that.

Mr. PLATT. That is what I suggested.

The PRESIDING OFFICER. If there be no objection, it will be so ordered.

Mr. HARRIS. That is exactly what has been done, and I do not think there is any censure to the clerk.

Mr. PLATT. Not at all.

Mr. HARRIS. The clerk announced that what he then proposed to read was in lieu of three sections which the committee recommended to be stricken out, and the substitute followed.

The PRESIDING OFFICER. The Chair was of opinion, and so announced, that the amendment proposed by the Senator from Missouri was in the nature of a substitute for sections 59, 60, and 61.

Mr. GRAY. Has the unanimous consent asked by the Senator from Rhode Island [Mr. ALDRICH] been acted upon?

The PRESIDING OFFICER. It has.

Mr. GRAY. That fixes it.

The PRESIDING OFFICER. It is considered as agreed to; and now the question is upon the amendment as a whole.

The amendment was agreed to.

Mr. ALDRICH. It is open to amendment now.

Mr. ALLISON. I move to amend on page 187, line 20, after the word "companies," by striking out the remainder of the paragraph.

The PRESIDING OFFICER. The Secretary will state the amendment proposed by the Senator from Iowa.

The SECRETARY. In line 19, on page 187, it is proposed to strike out all after the word "companies," as follows:

And all other corporations, companies, or associations doing business for profit in the United States, no matter how created and organized.

Mr. ALLISON. Mr. President, I move this amendment for the purpose of ascertaining a little more fully the scope of the amendment as now proposed by the committee. Thus far it has been the purpose of the committee and of the Senate in dealing with amendments to liberalize these provisions. The amendment of the Senator from Missouri [Mr. VEST] on behalf of the committee strikes out three sections inserted by the House of Representatives, and in effect changes the scope of the original provision of these three sections. The three sections in the bill are taken principally from the old laws respecting incomes.

Those provisions were intended to make more certain the collection of the income tax, and were inserted in the law of 1862, the law of 1864, and the laws passed in subsequent years for that purpose. It was said then, as we have heard it said two or three times during this debate, that the income tax would be evaded by those who ought to pay it, and the object of inserting these provisions in the income-tax law during the war and after the war was to require the great corporations of the United States to pay the incomes for the beneficiaries, deducting the amount of the income from the interest on bonds and dividends paid and the money carried to surplus.

That was the original object, as I understand, of the sections relating to corporations, but in the sections of the original acts and the amendments every corporation was named; that is, the character of the corporation was named, and there were but two kinds of corporations in our income-tax law originally. Those were moneyed corporations, such as banks, trust companies, and quasi money corporations, such as insurance companies, building associations, etc. That was one class of corporations.

Another class consisted of transportation companies, which carried for hire. During all the period of the income tax from 1862 to 1871 no other class of corporations was included. All the small corporations of the country were left to the original operation of the income tax; their dividends were paid, if dividends were declared, and carried in the income statements and returns of the individual members of those corporations.

The House of Representatives in those three sections changed entirely—although they adopted substantially many features of the old laws—the character of the income tax by sweeping in not only the corporations named here and named in the old laws, but by sweeping in every corporation of every name and nature, no matter how created or how organized, or how small or how great. Thus it is, that we have in the pending bill a provision which not only applies to the great money corporations of the country and to the great transportation companies of the country, but which applies to every corporation, however small, in every State in the Union. That perhaps would not be so objectionable if it were not for the fact that by the terms of the bill there is a discrimination made against these people, which is an unjust discrimination.

We have decided here by several votes in this Chamber that every person who is liable to the income tax is authorized to exclude from his return his taxes upon that income; first, $4,000, and then he is allowed to exclude from it all the taxes which he pays, State, national, and municipal; thus swelling the exemption of each individual in many cases many thousands of dollars more. If, however, a man or a woman or a minor child holds ten shares in the smallest corporation in the United States, which yields only $50 upon those ten shares, that person is compelled to pay an income tax of 2 per cent upon those shares in that corporation.

Mr. President, I have waited to see whether the committee could not in some form, by some provision, provide for this great injustice which will apply to thousands and hundreds of thousands of people in every State of the Union.

Mr. HILL. If the Senator will allow me, I will suggest that at the proper time, on the conclusion of his remarks, I have three amendments to cover the very point which he suggests, which I propose to offer.

Mr. ALLISON. I do not, of course, know what amendments are to be proposed by the Senator from New York.

Mr. HILL. The Senator's criticism of the bill as it stands is perfectly well taken.

Mr. ALLISON. What I want to do now is to see if we can not do exact justice to these small investors. I want this bill, when it shall go from the Senate, to do as nearly equal justice as we can do to the small investors in the United States.

Mr. HALE. Let me ask the Senator whether he conceives that the language he seeks to strike out, "and all other corporations, companies, or associations doing business for profit in the United States, no matter how created and organized," would include any large corporations, or are all the large corporations, which he seeks to reach by this provision, provided for in the explicit clause which precedes these words?

Mr. ALLISON. There may be some large manufacturing corporations which would be excluded by the amendment I propose.

Mr. HALE. Would the Senator desire to exclude these, or could he frame his amendment by a limitation as to the amount of capital stock or something of that kind, so that these small concerns, which I think everybody wishes to encourage, would not be subject to the provision?

Mr. GRAY. As I read the language in the section, if you struck that out there would be nothing to apply to the sugar trust corporation, so called, the great industrial corporation.

Mr. HALE. The small concerns would be saved by inserting a limitation as to the amount of capital.

Mr. ALLISON. I do not wish to include in the amendment I have proposed any of the large corporations. I only move to strike these out for the purpose of reaching the point which I am making, and that is, that this section as it stands applies to the small corporations which are scattered throughout the United States. It may be limited, as the Senator from Maine proposes, by fixing the amount of bona fide capital paid in.

Mr. HALE. Let me suggest to the Senator whether it would not be better, lest this may exclude something which we all wish to have provided for, instead of striking out the words "all corporations, companies, or associations doing business for profit in the United States, no matter how created and organized," to add to them "whenever such corporation, company, or association shall not exceed in the amount of its capital stock paid in $100,000."

Would not that cover the thought which the Senator has in mind?

Mr. ALLISON. That covers practically one thought I have in mind, but there is still another thought to which I wish to refer before I take my seat.

Mr. President, there are in my State, I have no doubt, 500 corporations which are engaged in manufacture, in trade, and in business of various kinds, every one of which will be compelled, under this provision as it stands, to pay 2 per cent upon the profits which they make, practically the gross profits, upon the amount of money they have invested in the corporation. It would be an injustice to these people that this should be done. I desire that this shall be done either by excluding every corporation not named—and I am willing to name the great industrial corporations of the country, in order that there may be no mistake about that—or in any proper way; but I do not want to include the smaller corporations I have described.

Mr. FRYE. Will the Senator allow me a word?

Mr. ALLISON. Yes, sir.

Mr. FRYE. I presume it is true of the Senator's State, as it is of mine, that in every county in the State there is to-day a portion of the farmers who utilize their milk in making it into butter and cheese. I presume in my State there are one hundred of these associations where the capital stock would be twenty-five thousand or fifty thousand dollars, and all paid in by the farmers. Then they carry their milk and manufacture it into cheese or into butter or something of that kind, and divide the profits. Is it possible that the committee desire to impose a tax of 2 per cent on the net profits of those little concerns? They are hardly entitled to be called corporations, but they are. It is true all over the North that to-day the farmers work in that way in disposing of their milk. It is equally true in my State, and I suppose that it is in others, that there are little corporations which can fish and lobsters, and things of that kind with perhaps a capital of only $25,000.

Mr. HALE. It applies to almost every form of human industry. It is the fashion now instead of making a partnership to form these little associations and put in twenty-five, forty, or fifty thousand dollars. They ought to be encouraged rather than discouraged.

Mr. HOAR. This does not include partnerships. It applies only to companies, corporations, or associations, not partnerships.

Mr. HILL. It makes a discrimination against corporate investments.

Mr. ALDRICH. I should be glad to have the Senator from Missouri state whether the interpretation given to this bill by the Senator from Massachusetts in his opinion is a correct one, because if the word "association" here includes partnerships, as the Senator from Massachusetts stated, as I understand——

Mr. HOAR. I did not say that.

Mr. ALDRICH. That is what I understood the Senator to say.

Mr. HOAR. I said "companies."

Mr. ALLISON. I do not understand, and I should be glad to have the Senator from Missouri state, whether he understands that this section and the subsequent sections regulating this subject are intended to deal with anything but associated corporations?

Mr. VEST. That is the meaning of it. I have not had any doubt about it. If I had intended to use the word "partnerships," I should have said "partnerships." For instance, take building and loan associations. That is the way they style themselves. They are not called "companies;" they are not called "corporations" *eo nomine*, but they are called "associations." Two or more individuals associate themselves, and we have a chapter in the Revised Statutes of Missouri which provides for these associations. They are quasi corporations.

Mr. HALE. That is not a private business partnership.

Mr. VEST. No; that is not a partnership.

Mr. ALLISON. The amendment suggested by the Senator from Maine of a limitation upon the capital and another amendment which I shall be glad to offer later on, cover the point I desire to make as to this subject especially, but I do not see why it is that we should not be absolutely careful to exclude from the operations of this act all these small corporations. We have just liberalized this very provision by excluding from the calculation bonded indebtedness of every kind, and other indebtedness, and we have remanded to the individual person who receives an income from bonds the question of making his return of that income in this very provision as now amended by the Finance Committee.

We have thus eliminated every suggestion that the corporation itself shall deduct the income from its bonds and charge it over to the bondholders, as the original income tax law did. There is nothing now to be taken from the great body of these corporations except the dividends, and they are to be deducted and the receiver of the dividend can then put in with his exemption the amount paid by the corporation on his behalf. So I shall modify my amendment by providing that this shall not apply to any corporation, company, or association having bona fide paid-up capital of not exceeding $100,000.

Mr. HALE. Let those words come in at the end.

Mr. ALLISON. It is a purely arbitrary distinction; but you must make this distinction at some point, unless you strike out all these private industrial corporations.

Mr. HOAR. I have drawn an amendment which should come in as an addition to the language of the original text before it is struck out, to which I should like to have the Senator from Iowa listen, if he will. I do not want to take him off the floor.

Mr. ALLISON. I will listen to the Senator.

Mr. HOAR. There are in my State, and I suppose in nearly all the States now, an enormous number of persons who form themselves into what are called joint stock companies, but which are corporations in the law for two purposes, first, to escape the personal liability for debt beyond the limit fixed, whatever it may be, and, next, so that whenever a single partner goes out or dies or becomes insolvent on his private account, or anything else which would dissolve the corporation, there is not to be a legal liquidation of the whole concern. These two latter are quite as important as the former.

Some of these companies never divide. One instance came to my knowledge the other day which was founded with a capital of about $80,000, and had a very profitable business, and increased to an investment of $800,000, I suppose without any debts at all, the original capital stock of which company would come within the Senator's amendment. At the same time this corporation, if it is to be taxed at all, should have an exemption of a sum equal to the aggregate of the exemption of the men who compose it. Suppose they are not allowed the exemption on their other property. Here are two men who go into partnership; they put in their whole property and their whole labor, and they do not divide anything except what is necessary for a frugal support.

Mr. ALLISON. That reaches another point with which I did not intend to deal.

Mr. HOAR. Is not that an absolutely just principle universally comprehended, that such an institution shall pay on its receipts, it having the benefit only of the exemptions which the men who compose it are entitled to?

Mr. ALLISON. Very well; but suppose there are a hundred stockholders and each one of them is entitled to an exemption of $4,000? Certainly they should be, but that is only an argument against including corporations at all.

Mr. HOAR. If the Senator will allow me I will read my proposition. It is as follows:

Provided, That there shall be allowed to said corporation, company, or association an exemption equal to the aggregate of the exemptions to which such stockholders would be entitled in estimating their individual taxes, not including, however, any exemption which may be allowed such stockholders as individuals.

Why does not that cover the whole thing?

Mr. ALLISON. That may be a very good provision, but what I desire is that the small corporations shall not be disturbed at all by this army of taxgatherers. I do not suppose that it is the intent and purpose of those who propose to pass this law that we shall immensely increase the working force of the Commissioner of Internal Revenue, and yet, unless modifications and ex-

clusions are inserted here there will have to be an army of collectors and deputy collectors equal to that army which we found at the close of the war when everything that was produced and everything that was sold was taxed, and the taxgatherer was found in every household in the land.

We are liberalizing in this bill, I say frankly, the income-tax law as compared with any law that was on our statute books during the war. We have exempted $4,000. That means an exemption of a man who may be worth $150,000 in my State. If he is a large landholder and has no income from it he pays no tax. He may have one-half of an estate of $200,000 in land which yields him no income and another $100,000 of property that does yield an income, and still he is exempt from taxation under this proposed law. Therefore it is to be a liberal law to every individual who has property and earnings as respects the exemption.

When we have done that, then we propose to reach all the people in every State who, not caring to take care of their own property, invest small sums in small corporations. I know in the city in which I live some years ago a manufacturer of furniture failed. The twenty skilled mechanics who were employed by him united into a corporation in my city, and for ten years they have been conducting the business. They now conduct a business of $150,000 a year, yielding to them probably an annual income of $10,000. There is not a man in the corporation who is worth $5,000, and yet the taxgatherer will come under this bill and sweep in, as against those mechanics, 2 per cent upon their entire earnings.

I know of farmers in my State who have contributed—some $100, some $200, and others $500—to what we call creameries, producing the vast amount of butter produced in that State, the amount last year amounting to $33,000,000 in value. Those little creameries are conducted in all the villages in my State by small corporations, the largest capital in any of them probably not exceeding $20,000. The taxgatherer is to go over the farms and in the villages and find out how much those creameries have produced, whereas perhaps the total profits of any one of them would not exceed $4,000.

Yet because those men have invested their small earnings in these little corporations in their own village, they are to be visited by the taxgatherer and they are to have wrenched from them 2 per cent; whilst other great corporations, with thousands in money, are to have an exemptinn of $4,000 or $6,000 or $7,000, perhaps, if they are paying a large amount of taxes upon unoccupied and unproductive land.

Mr. VEST. My friend from Iowa is drawing an appalling picture here of enormous taxation on an association of mechanics in his own town. Let me call his attention to what he, in the vehemence of his eloquence, has overlooked. He says there are twenty of them, and they make $10,000 a year, according to the language of the bill, over and above all their operating and business expenses, excluding their losses and interest upon their bonded and other indebtedness. The tax would be $200, and that would be $10 to the man.

Mr. ALLISON. It is not the amount of the tax; it is the smallness of the provision that I object to.

Mr. VEST. Oh, I thought it was the amount.

Mr. ALLISON. I do not object to the amount.

Mr. ALDRICH. If the same product was produced by them as individuals they would be saved the tax. Why should they pay a tax of $10 because they work together?

Mr. HALE. Or suppose it was a technical partnership, and nothing more.

Mr. ALLISON. They would be exempt.

Mr. HALE. Such little companies and corporations take the place of small partnerships. The partnership would be excluded. Every member of the partnership would have to make a return on his private income and there alone would he be touched. I do not believe when the committee itself considers the desirability of encouraging all of these small concerns it will insist upon rejecting the amendment of the Senator from Iowa. One thing that is lamentable in this country is the general scope and swing and aggressive nature of great corporations. They monopolize every form of human enterprise.

The men who fifty years ago began in a small way and increased and became larger in their enterprises and passed into prosperous, thrifty, and wealthy citizens are few; they go into the great corporations in which individual enterprise is stifled. There is no provision in the bill that tends more to stifle and destroy the small fruits of human enterprise than the provision unamended by the amendment of the Senator from Iowa.

Mr. ALLISON. All I desire is to exempt from the operation of the bill the people who have small incomes and under it have no way of securing exemption. I had hoped that before we reached this point the committee would devise some way whereby the exemption could be made, but I see no suggestion of that character.

Mr. VEST. This is a most liberal bill to corporations.

Mr. ALLISON. I know it is liberal to corporations, and that is what I complain of.

Mr. LINDSAY. As I understand the position of the Senator from Iowa, he wishes the bill so reformed as that the stockholder who receives a small dividend from a large corporation shall be taxed——

Mr. ALLISON. No, sir.

Mr. LINDSAY. And the stockholder who receives a small dividend from a small corporation shall not be taxed. Is that the logic of the Senator's position?

Mr. ALLISON. I shall endeavor to state the case. I have already said that as we have liberal provisions in the bill as to individuals, exempting them to the extent of $4,000, and many thousands more if their property is not invested in a corporation. We have made that exemption. I say that is an injustice to a man who has invested his money in a corporation unless we mean to punish him for doing that thing. I shall be glad to draw to my side the Senator from Kentucky. I will sit down with him with as much patience as I can on a hot evening and try to do justice to a small stockholder in a big corporation, and if he will not help me to do that, and the committee can not do it, then I should be glad to have him help me reach a small stockholder in a small corporation so as to do as little injustice as possible under the bill. If he will not do that, then I must offer the amendment which was kindly written for me by the Senator from Maine, while I was speaking, exempting wholly from the operation of this proposed law corporations not having a capital exceeding $100,000. I want the Senator from Kentucky to tell me what will be the injustice of doing that thing. Already the Senator from Kentucky has voted for a proposition which excludes all the bonds of all the corporations in the United States from this bill. The people who receive incomes upon the bonds are relegated to their integrity in making a return.

Mr. VEST. Does the Senator from Iowa think it is wrong to keep out those bonds?

Mr. ALLISON. Certainly not. I am not complaining of it; I am endeavoring now to bring the Senator from Kentucky to our side of the question. If that be true, why can not the small people, why can not these mechanics in my town, about whom the Senator from Missouri is disturbed, be trusted to make a proper return of their income if it is over $4,000? Why can not the stockholders in the little corporation I have spoken of be trusted to make as honest returns as other people make honest returns?

For myself, not being under the stringency that we were during the war, and in the years immediately following the war, I should be willing to follow the suggestion of the Senator from Connecticut the other day and make this a bill as against every person who has an income, making them pay the same amount, and thus by that sweeping method do justice to all citizens of the United States. But it seems the committee has decided otherwise, by sweeping in all the stocks of all stockholders in all the great corporations. If the Senator from Kentucky can devise a method by which that will be excluded I will join him in it. If he can not I hope he will join me in the amendment which I have offered.

Mr. HALE. The Senator from Iowa withdraws his first amendment?

Mr. ALLISON. I withdraw the first amendment.

Mr. HOAR. Of course there never before has been any income tax on corporations. In 1864 corporations were taxed in another way.

Mr. ALLISON. There has been no tax on corporations, as such, I agree. There was no tax except upon their surplus.

Mr. CHANDLER. The war taxes upon incomes were taxes upon individuals. If every individual in the United States pays an income tax why should there be an income tax imposed upon corporations? Is not every dollar made by a corporation and declared as a dividend of profit taxed to the individual?

Mr. ALLISON. There would be one reason for it. It may be necessary in the great corporation to reach a surplus each year which is not carried to dividends, and that is provided for in the bill. It was provided for in all the income-tax laws during the war. It was done to reach a surplus that was carried to what is called the surplus fund, and I see no inequity, if we are to have an income tax, in taxing a surplus if we are to tax the individual.

Mr. CHANDLER. I ask the Senator if the bill does not provide, first, to tax the individual and then to tax the corporation, and does it not also provide that in taxing the individual you shall deduct the amount which the corporation is taxed? So it would be just as well and bring in exactly as much money to tax the individuals and not tax the corporations.

Mr. ALLISON. That is true. You would get less from dividends; but you would not reach the surplus.

Mr. CHANDLER. Very good. Then have the surplus taxed.

Mr. ALDRICH. If the Senator from New Hampshire will allow me, I will state that there is another very important distinction. If all the people in the United States who receive income from either the bonds or the stock of corporations had $4,000 per annum, then the statement of the Senator from New Hampshire would be correct and there would be no exemptions in one case that did not exist in the other. But there is a very large class of stockholders or holders of bonds in corporations who receive less than $4,000, and those people are taxed by the provisions of the bill.

Mr. ALLISON. The bondholders are exempted by the provision.

Mr. GRAY. The bondholders pay on their income.

Mr. ALLISON. They pay on their income if it is above $4,000.

Mr. ALDRICH. If a man receives an income of $50,000 from the bonds of a corporation he is exempted; if he receives an income of $50 from the stock of a corporation he is taxed by the provisions of the bill, without reference to the fact whether his income reaches $4,000 or not.

Mr. HOAR. I should like to inquire of the committee, in order to make clear what I understand they say is their meaning, whether there is any objection to adding after the word "organized" the words "but not including partnerships?" I am afraid that the phrase "companies or associations" * * * "no matter how created and organized," does include partnerships.

Mr. VEST. This language is taken from the act of 1864. That act uses the words "corporations or associations."

Mr. HOAR. Not "companies?"

Mr. VEST. Yes, "companies, corporations, or associations."

Mr. HOAR. If the Senator has that clause in the act before him I should like to have him read it.

Mr. CHANDLER. The act of 1864 did not tax the incomes of corporations. It taxed corporations another way,

Mr. ALDRICH. It taxed a certain class of corporations.

Mr. CHANDLER. But not by an income tax.

Mr. ALDRICH. Not corporations generally.

Mr. VEST. I referred to what was called the excise tax, which was in force when the income-tax law of 1864 was enacted.

Mr. ALLISON. The tax of 1864 was a tax on individuals with an exemption of $600, and in order to secure that tax it made the corporations the agents of the Government to collect it, and that is all there was of it, except dividends upon sums carried to the surplus.

Mr. VEST. Here is the language to which I referred. It is in the act of the Thirty-eighth Congress, first session, chapter 173, "manufactures, articles, and products." This is not the income-tax law, but it is what is call the excise law, the manufactures law:

SEC. 82. *Be it further enacted*, That every individual, partnership, firm, association, or corporation——

Mr. HOAR. Exactly.

Mr. VEST. That was the language.

Mr. CHANDLER. That is the manufactures tax.

Mr. ALLISON. It is the tax on cotton.

Mr. HOAR. That act uses the word "partnership," and in terms it includes individuals.

Mr. VEST. The words were "every individual, partnership, firm, association, or corporation."

Mr. HOAR. It does not say "company." It is not the purpose of this section to include partnerships. They are dealt with in another way, and the exemption belonging to the individual partner is to be secured in another way.

I should like to ask my friend from Missouri, who is a good lawyer and does not want to draw a bill and be responsible for an act that has doubt in its meaning, whether it is not better to make his meaning clear, and whether it is not, to say the least, a doubtful question whether the clause "corporations, companies, or associations doing business for profit in the United States, no matter how created and organized," does not include partnerships?

I say on my responsibility as a lawyer that I think it does. I should give that opinion as at present advised to a client or to an officer of the Government. I can not conceive a more apt description of a partnership than "companies or associations doing business for profit." If a partnership is not a company or association of men doing business for profit, what in the world is it, however established or organized? The clause is made clear to everybody by simply adding the words, "and not including partnerships," and that is what I suggest to the consideration of the Senate. I gave notice of that amendment. I shall not offer it at this moment because I want to offer another

Mr. FRYE. But if it should be offered and voted down, then it would be an instruction to the internal-revenue collector that the clause does include partnerships.

Mr. VEST. Let the amendment go over.

Mr. HOAR. The Secretary will take down the amendment. I propose to add after the word "organized," in line 22, page 187, "but not including partnerships."

Now, I wish to move as an addition, to which I also ask the attention of the Senator from Missouri and the Senator from Iowa, the following proviso:

Provided, That there shall be allowed to said corporation, company, or association, an exemption equal to the aggregate of the exemption to which such stockholders would be entitled in estimating their individual tax, not including, however, any exemption which may have been allowed to such stockholders as individuals.

If we are going to have an income tax and if it is going to include business corporations, I do not think it is just to draw the line merely at a certain amount of capital stock, because, as I said just now, that does not fairly estimate either the investment or the earnings. I know a corporation the capital stock of which, I think, is a million and a half, which has an investment of several millions now. I know another corporation which began business about 1864 with a capital of seventy or eighty thousand dollars (I do not know but that it was $60,000), and which, continuing the same capital, has an investment of over $800,000.

The men who own that corporation have received dividends barely equal to a frugal living, and I suppose they have had salaries or something of that kind, which they have been paid, and they have not divided their earnings or accumulations; they have let them stand as a surplus.

Mr. HALE. Now, if the Senator from Massachusetts desires to have that company taxed we can find a way in phraseology by which it can be taxed. The general proposition is good, but if the Senator has a corporation which he thinks under this provision is going to escape and he wants it taxed, we can find some language to cover it, of course.

Mr. HOAR. I dare say. If this provision is to pass it should pass on a principle which is just to some human being who will have some justice under it.

Mr. ALLISON. Will the Senator from Massachusetts allow me, as he seems to be arguing against the amendment which I offered? I stated to the Senator from Kentucky [Mr. LINDSAY] that I should be glad to follow any Senator in dealing with this whole question of exemption, but even if that were done I do not see why the small corporations of small incomes should have the taxgatherer about them twice a year.

Mr. HOAR. If what the Senator means is not only to protect them from their exemption, but also to protect them from returns, of course I shall be glad to follow him in that respect.

Mr. PEFFER. I wish to suggest to the Senator from Massachusetts and to the Senator from Iowa whether we could not get out of this difficulty by simply exempting $4,000 of the net income of these corporations. Four thousand dollars is the usual exemption to individuals. Would not that be just all around?

Mr. HOAR. The answer to that suggestion is, here are three or four young mechanics who form a corporation for reasons which have been stated. All they have in the world is their earnings from that stock. Now, ought not each of them have as much exemption as the man who is doing business alone by their side? Here are four men who are doing business separately. Each gets his $4,000 exemption. Here are four men who do exactly the same thing together, and there is but one $4,000 exemption for the whole four.

Mr. PEFFER. Would not that relieve the situation, however, from the embarrassment?

Mr. HOAR. Not in the least. It would be unjust, as I understand it.

Mr. HARRIS. Mr. President——

Mr. HOAR. Let the amendment of which notice has been given be printed.

The PRESIDING OFFICER. The amendment suggested by the Senator from Massachusetts will be printed.

Mr. HARRIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened and (at 6 o'clock and 18 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, June 27, 1894, at 10 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate June 26, 1894.

UNITED STATES CONSUL-GENERAL.

Charles de Kay, of New York, to be consul-general of the United States at Berlin, Germany, vice William Hayden Edwards, deceased.

UNITED STATES CONSUL.

William Myers Little, of North Carolina, to be consul of the United States at Tegucigalpa, Honduras, vice James J. Peterson, recalled.

ASSISTANT SURGEON MARINE HOSPITAL SERVICE.

Assistant Surgeon Benjamin W. Brown, of California, to be passed assistant surgeon in the Marine Hospital Service of the United States.

POSTMASTERS.

Enoch Moore, to be postmaster at Wilmington, in the county of Newcastle and State of Delaware, in the place of Daniel F. Stewart, whose commission expires June 26, 1894.

Will E. Newman, to be postmaster at Lancaster, in the county of Fairfield and State of Ohio, in the place of Charles B. Martin, whose commission will expire July 9, 1894.

Peter B. Davis, to be postmaster at Narragansett Pier, in the county of Washington and State of Rhode Island, in the place of James D. Caswell, whose commission will expire July 9, 1894.

Henry Vits, to be postmaster at Manitowoc, in the county of Manitowoc and State of Wisconsin, in the place of Nancy Smart, whose commission expired June 23, 1894.

PROMOTIONS IN THE NAVY.

Lieut. Commander Charles S. Sperry, to be a commander in the Navy, from June 22, 1894, vice Commander George R. Durand, retired.

Lieut. Francis H. Delano, to be a lieutenant-commander in the Navy, from June 22, 1894, vice Lieut. Commander C. S. Sperry, promoted.

Lieut. (junior grade) Edward Lloyd, jr., to be a lieutenant in the Navy, from April 16, 1894, vice Lieut. William J. Barnette, promoted.

Lieut. (junior grade) Harry P. Huse, to be a lieutenant in the Navy, from May 13, 1894, vice Lieut. John Garvin, retired.

Lieut. (junior grade) Richard M. Hughes, to be a lieutenant in the Navy, from June 22, 1894, vice Lieut. F. H. Delano, promoted.

Ensign Guy W. Brown, to be a lieutenant (junior grade) in the Navy, from April 16, 1894, vice Lieut. (junior grade) Edward Lloyd, jr., promoted. Subject to the examination required by law.

Ensign William B. Fletcher, to be a lieutenant (junior grade) in the Navy, from May 13, 1894, vice Lieut. (junior grade) H. P. Huse, promoted.

Ensign Marbury Johnston, to be a lieutenant (junior grade) in the Navy, from June 22, 1894, vice Lieut. (junior grade) R. M. Hughes, promoted. Subject to the examination required by law.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 26, 1894.

REGISTERS OF THE LAND OFFICE.

Edwin A. Lamb, of Michigan City, N. Dak., to be register of the land office at Bismarck, N. Dak.

Reuben Noble, of Devils Lake, N. Dak., to be register of the land office at Devils Lake, N. Dak.

RECEIVERS OF PUBLIC MONEYS.

Adolph W. Schmidt, of Devils Lake, N. Dak., to be receiver of public moneys at Devils Lake, N. Dak.

Foster M. Kinter, of Lamoure, N. Dak., to be receiver of public moneys at Bismarck, N. Dak.

POSTMASTERS.

Monroe G. Sisson, to be postmaster at Greenfield, in the county of Greene and State of Illinois.

Sylvester S. Shoemaker, to be postmaster at Metropolis City, in the county of Massac and State of Illinois.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June 26, 1894.*

The House met at 12 o'clock m. Prayer by the Rev. W. H. MILBURN, D. D., Chaplain of the Senate.

The Journal of the proceedings of yesterday was read and approved.

EMPLOYÉS POSTAL RAILWAY SERVICE.

The SPEAKER laid before the House a letter from the Postmaster-General, transmitting, pursuant to a resolution dated May 29, 1894, information relative to the removal of clerks in the Railway Mail Service between the 4th day of March and the 1st day of May, 1889; which was referred to the Committee on the Post-Office and Post-Roads.

FINDINGS OF COURT OF CLAIMS.

The SPEAKER also laid before the House findings of the Court of Claims in the following cases *vs.* The United States, namely: D. T. Wood and John W. Rowlett; which were severally referred to the Committee on War Claims.

LABOR DAY A LEGAL HOLIDAY.

The SPEAKER also laid before the House the bill (S. 730) making Labor Day a legal holiday.

Mr. MCGANN. Mr. Speaker, I would like to ask present consideration for this bill.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill was read, as follows:

Be it enacted, etc., That the first Monday of September in each year, being the day celebrated and known as Labor's Holiday, is hereby made a legal public holiday, to all intents and purposes, in the same manner as Christmas, the 1st day of January, the 22d day of February, the 30th day of May, and the 4th day of July are now made by law public holidays.

There being no objection, the bill was considered, ordered to a third reading; and being read the third time, was passed.

On motion of Mr. MCGANN, a motion to reconsider the last vote was laid upon the table.

CHANGE OF REFERENCE.

Mr. DE ARMOND. Mr. Speaker, by direction of the Judiciary Committee I wish to suggest that the bill (H. R. 143) for the relief of the heirs of D. Fletcher, heretofore referred to the Judiciary Committee, be referred to the Committee on Claims.

The SPEAKER. In the absence of objection the change of reference indicated by the gentleman from Missouri will be made.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House of Representatives by Mr. PRUDEN, one of his secretaries; who also informed the House that the President had approved and signed bill and joint resolution of the following titles.

On June 23 1894: An act (H. R. 4720) to pension Lucy Brown, dependent foster mother

On June 26, 1894: Joint resolution (H. Res. 192) granting full permission to the State of Maryland and to the several State courts within the city of Baltimore to occupy the old United States court-house in the city of Baltimore for the period of five years.

PUBLIC BUILDING, LITTLE ROCK, ARK.

Mr. TERRY. Mr. Speaker, I ask present consideration of the bill (H. R. 1934) to provide for the improvement of the building and grounds of the United States court and post-office at Little Rock, Ark.

The SPEAKER. The bill will be read, after which the Chair will ask for objection.

The bill was read at length.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. HOLMAN. I hope there will be at least some explanation of the measure.

Mr. SAYERS. I am unwilling, Mr. Speaker, that a bill of that character should be passed by unanimous consent.

Mr. TERRY. I hope the gentleman will withhold his objection, at least until I can make a brief statement and have the report read.

Mr. SAYERS. I have no objection to the gentleman making a statement in reference to the matter.

Mr. TERRY. This is a case of urgency, as shown by the letter of the Hon. Henry C. Caldwell, the circuit judge of the eighth circuit, which is appended to the report. The committee have carefully considered the matter, and report unanimously in favor of the bill. I ask that the report be read in my time.

The SPEAKER. The report will be read, if there is no objection.

The report (by Mr. BANKHEAD) was read, as follows:

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 1934) to provide for the improvement of the building and grounds of the United States court and post-office at Little Rock, Ark., having considered the same, report as follows:

The site of the building referred to in this bill was purchased May, 1873, and the building thereon was afterwards erected at a cost of about $221,000. It was intended for the use and purposes of the United States court-house, post-office, land office, revenue collector, and other Government offices at Little Rock, Ark.

From the evidence before the committee it appears that the building never was sufficient for the purposes indicated, and that on that account it was objected to in the very beginning by the United States district (now the United States circuit) judge in that circuit, as appears in his letter herewith submitted. Since its erection the city of Little Rock and the State of Arkansas have largely increased in population, and there has been a corresponding increase in the business of the post-office, the United States court, and other departments in the Government service at that point, so as