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Book 577

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War Savings Bonds
See Financing, Government
Secretary of the Treasury Morgenthau today announced the offering, through the Federal Reserve Banks, for cash subscription at par and accrued interest of 2 percent Treasury Bonds of 1950-52, and an additional amount of 1-1/2 percent Treasury Notes of Series B-1946. The aggregate amount of both issues will be $4,000,000,000, or thereabouts, and the proportionate amount of bonds and notes to be issued will be determined by the relation between the total subscriptions received for each and the total subscriptions received for both. In order to insure widespread participation of banks, corporations and others who may be interested, and for the convenience of investors, the subscription books for each issue will remain open two days, that is, through Friday, October 9. There will be no restrictions as to the basis for subscribing for either the bonds or the notes.

The Treasury Bonds of 1950-52, now offered for subscription, will be dated October 19, 1942, and will bear interest from that date at the rate of 2 percent per annum payable semiannually with the first coupon due March 15, 1943, for a fractional period. The bonds will mature March 15, 1952, but may be redeemed, at the option of the United States, on and after March 15, 1950. The bonds will be issued in two forms: bearer bonds with interest coupons attached, and bonds registered both as to principal and interest. Both forms will be issued in denominations of $100, $500, $1,000, $5,000, $10,000 and $100,000.

The notes now offered will be an addition to and will form a part of the series of 1-1/2 percent Treasury Notes of Series B-1946, issued pursuant to Department Circular No. 686, dated.
May 25, 1942. They are identical in all respects with such notes with which they will be freely interchangeable. The notes are dated June 5, 1942, and bear interest from that date at the rate of 1-1/2 percent per annum, payable on a semiannual basis on December 15, 1942 and thereafter on June 15 and December 15 in each year until they mature on December 15, 1946. They will not be subject to call for redemption prior to maturity. They will be issued only in bearer form with interest coupons attached, in denominations of $100, $500, $1,000, $5,000, $10,000 and $100,000.

Pursuant to the provisions of the Public Debt Act of 1941, interest upon the bonds and notes now offered shall not have any exemptions, as such, under Federal Tax Acts now or hereafter enacted. The full provisions relating to taxability are set forth in the official circulars released today.

Subscriptions will be received at the Federal Reserve Banks and Branches, and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies. Subscriptions from banks and trust companies for their own account will be received without deposit, but subscriptions from all others must be accompanied by payment of 5 percent of the amount of bonds or notes applied for.

Subject to the usual reservations, and within the amounts of the respective offerings, subscriptions for each issue for amounts not exceeding $25,000 from banks which accept demand deposits, and subscriptions in any amount from all other subscribers, will be allotted in full; subscriptions for amounts over $25,000 from banks which accept demand deposits will be allotted on an equal percentage basis, to be publicly announced. Payment for any bonds allotted must be made or completed on or before October 19, 1942, or on later allotment. Payment for any notes allotted must be made or completed on or before October 15, 1942, or on later allotment, and must include accrued interest from June 5, 1942. (The amount of accrued interest from June 5 to October 15, 1942 is about $5.41 per $1,000.)

The texts of the official circulars follow:
UNITED STATES OF AMERICA

2 PERCENT TREASURY BONDS OF 1950-52

Dated and bearing interest from October 19, 1942

Due March 15, 1952

REDEEMABLE AT THE OPTION OF THE UNITED STATES AT PAR AND ACCRUED INTEREST ON AND AFTER MARCH 15, 1950

Interest payable March 15 and September 15

1942

Department Circular No. 698

TREASURY DEPARTMENT,
Office of the Secretary,
Washington, October 8, 1942.

I. OFFERING OF BONDS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions, at par and accrued interest, from the people of the United States for bonds of the United States, designated 2 percent Treasury Bonds of 1950-52. At the same time the Secretary of the Treasury is inviting subscriptions for an additional amount of Treasury Notes of Series A-1946 under Department Circular No. 699. The aggregate amount of both issues will be $4,000,000,000, or thereabouts. The amount of bonds to be issued hereunder will be determined by the relation which the total subscriptions for the bonds bear to the total subscriptions received for both the bonds and the notes.

II. DESCRIPTION OF BONDS

1. The bonds will be dated October 19, 1942, and will bear interest from that date at the rate of 2 percent per annum, payable on a semiannual basis on March 15 and September 15 in each year until the principal amount becomes payable. They will mature March 15, 1952, but may be redeemed at the option of the United States on and after March 15, 1950, in whole or in part, at par and accrued interest, on any interest day or days, on 1 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

2. The income derived from the bonds shall be subject to all Federal taxes, now or hereafter imposed. The bonds shall be subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but shall be exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.
3. The bonds will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege and will not be entitled to any privilege of conversion.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $100, $500, $1,000, $5,000, $10,000 and $100,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. SUBSCRIPTION AND ALLOTMENT

1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Treasury Department, Washington. Subscribers must agree not to sell or otherwise dispose of their subscriptions, or of the securities which may be allotted thereon, prior to the closing of the subscription books. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies. Others than banking institutions will not be permitted to enter subscriptions except for their own account. Subscriptions from banks and trust companies for their own account will be received without deposit. Subscriptions from all others must be accompanied by payment of 5 percent of the amount of bonds applied for.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of bonds applied for, and to close the books as to any or all subscriptions at any time without notice; and any action he may take in these respects shall be final. Subject to these reservations, and within the amount of the offering, subscriptions for amounts up to and including $25,000 from banks which accept demand deposits, and subscriptions in any amount from all other subscribers, will be allotted in full; subscriptions for amounts over $25,000 from banks which accept demand deposits will be allotted on an equal percentage basis, to be publicly announced. Allotment notices will be sent out promptly upon allotment.

IV. PAYMENT

1. Payment at par and accrued interest, if any, for bonds allotted hereunder must be made or completed on or before October 19, 1942, or on later allotment. In every case where payment is not so completed, the payment with application up to 5 percent of the amount of bonds applied for shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make payment by credit for bonds allotted to it for itself and its customers.
up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve Bank of its district.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

HENRY MORGENTHAU, JR.,
Secretary of the Treasury.
UNITED STATES OF AMERICA

1-1/2 PERCENT TREASURY NOTES OF SERIES B-1946

Dated and bearing interest from June 5, 1942 Due December 15, 1946
Interest payable June 15 and December 15

ADDITIONAL ISSUE

1942
Department Circular No. 699

Fiscal Service
Bureau of the Public Debt

TREASURY DEPARTMENT,
Office of the Secretary,
Washington, October 8, 1942.

I. OFFERING OF NOTES

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions, at par and accrued interest, from the people of the United States for notes of the United States, designated 1-1/2 percent Treasury Notes of Series B-1946. At the same time the Secretary of the Treasury is inviting subscriptions for 2 percent Treasury Bonds of 1950-52 under Department Circular No. 698. The aggregate amount of both issues will be $4,000,000,000, or thereabouts. The amount of notes to be issued hereunder will be determined by the relation which the total subscriptions for the notes bear to the total subscriptions received for both the notes and the bonds.

II. DESCRIPTION OF NOTES

1. The notes now offered will be an addition to and will form a part of the series of 1-1/2 percent Treasury Notes of Series B-1946, issued pursuant to Department Circular No. 686, dated May 25, 1942, will be freely interchangeable therewith, are identical in all respects therewith, and are described in the following quotation from Department Circular No. 686:

"1. The notes will be dated June 5, 1942, and will bear interest from that date at the rate of 1-1/2 percent per annum, payable on a semiannual basis on December 15, 1942, and thereafter on June 15 and December 15 in each year until the principal amount becomes payable. They will mature December 15, 1946, and will not be subject to call for redemption prior to maturity.

"2. The income derived from the notes shall be subject to all Federal taxes, now or hereafter imposed. The notes shall be subject to estate, inheritance, gift or other excise taxes, whether Federal..."
or State, but shall be exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be accepted at par during such time and under such rules and regulations as shall be prescribed or approved by the Secretary of the Treasury in payment of income and profits taxes payable at the maturity of the notes.

4. The notes will be acceptable to secure deposits of public monies, but will not bear the circulation privilege.

5. Bearer notes with interest coupons attached will be issued in denominations of $100, $500, $1,000, $5,000, $10,000 and $100,000. The notes will not be issued in registered form.

6. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States notes.

III. SUBSCRIPTION AND ALLOTMENT

1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Treasury Department, Washington. Subscribers must agree not to sell or otherwise dispose of their subscriptions, or of the securities which may be allotted thereto, prior to the closing of the subscription books. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies. Others than banking institutions will not be permitted to enter subscriptions except for their own account. Subscriptions from banks and trust companies for their own account will be received without deposit. Subscriptions from all others must be accompanied by payment of 5 percent of the amount of notes applied for.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, and to close the books as to any or all subscriptions at any time without notice; and any action he may take in these respects shall be final. Subject to these reservations, and within the amount of the offering, subscriptions for amounts up to and including $25,000 from banks which accept demand deposits, and subscriptions in any amount from all other subscribers, will be allotted in full; subscriptions for amounts over $25,000 from banks which accept demand deposits will be allotted on an equal percentage basis, to be publicly announced. Allotment notices will be sent out promptly upon allotment.

IV. PAYMENT

1. Payment at par and accrued interest from June 5, 1942, for notes allotted hereunder must be made or completed on or before October 15, 1942, or on later allotment. In every case where payment is not so completed, the
payment with application up to 5 percent of the amount of notes applied for shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make payment by credit for notes allotted to it for itself and its customers up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve Bank of its district. Accrued interest at 1-1/2 percent from June 5, 1942, to October 15, 1942, on $1,000 face amount is $5,412.09.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

HENRY MORGENTHAU, JR.,
Secretary of the Treasury.
October 8, 1942
10:15 a.m.

WAR SAVINGS BONDS

Present: Mr. Graves
Mr. Kuhn
Mr. Gamble
Mr. Odegard

H.M.JR: All right, gentlemen.

MR. GRAVES: You remember, we suspended, in the middle of our rush the other day, the proposal of a convention of our people. We would like to have your approval of holding such a meeting in a couple of weeks - probably, if you approved, two weeks from Monday - to consider our program in all of its aspects and to give these people some details of operations that we ought to be carrying on until something happens to us that makes it advisable to change.

For instance, we want to go ahead, strongly, with the pay-roll savings. We would like to impress upon people the advisability of concluding this program, if we can, by the end of the year, getting as many of the companies as possible in this thing on the basis of ten percent of gross pay roll.

You and I talked over the phone yesterday about the F and G thing - that is another thing we would like to inform these people on, and recruit these insurance fellows that have been offered to us.

Those are illustrations of a good many projects that we think would be very beneficial - in fact, necessary for us to talk over with our people if we are going to do a good job. I gave you this list of projects before. (Tentative Agenda of meeting handed to the Secretary, copy attached.)
H.M.JR: Is it just the same?

MR. GRAVES: It is just the same.

H.M.JR: Wouldn't the women's program be Miss Elliott?

MR. GRAVES: We were not sure what we should do about that. You see, the women have just had a meeting of their own, and here I think it would perhaps suffice for us to have a discussion with our people. That would be Mr. Odegard's job - just how the women's activities are to be fitted in.

H.M.JR: You mean you wouldn't have Miss Elliott there?

MR. GRAVES: We might, or we might not.

H.M.JR: We should. I mean, if you are going to expect them - after all, thirty percent of the people in the factories, now, are women. It seems to me that they should be there. They are very definitely and constantly increasing.

MR. GRAVES: Yes.

H.M.JR: I mean, you can't expect the women to do the work unless you recognize them.

MR. GRAVES: We would, of course, recognize them. It was a question of whether we needed to have her.

H.M.JR: I would definitely suggest that.

MR. GRAVES: Is that your belief, too?

MR. ODEGARD: I would agree, yes. I think that Miss Elliott ought to be in the picture - someone from the Women's Division.

H.M.JR: I think it should be Miss Elliott.
MR. ODEGARD: I think it should be Miss Elliott, yes, if possible. You see, I haven't talked with her about whether she would be so involved with other things in connection with this Women's Week thing.

H.M.JR: She should "disinvolve" herself.

MR. ODEGARD: Of course, the fact that they had this other conference should not necessarily mean that Miss Elliott ought not to be here, because she ought to present this thing to a different group rather than to their own group.

H.M.JR: I think so. After all, you have Myers to do the farm and Houghteling the Negro, and so forth and so on.

It is all right with me.

MR. GRAVES: Fine. We will go ahead, I think, at Kansas City, two weeks from Monday - two days and a half.

That is all I have.

H.M.JR: Now - that is all you have?

MR. GRAVES: Yes.

H.M.JR: There is one thing I would like to ask, as long as I have you. I think it was Odegard who told me that you reorganized the advertising section and changed it from an advertising agency, so to speak, to an advisory service. You never said anything more than that. Wouldn't that mean you can get along with a less number of people? We seem to have a lot of specialists, and everything, over there with Mahan.

MR. ODEGARD: Well, as a matter of fact, what has happened is that in Callahan's shop, to which that advertising operation has been transferred, we not only are getting along with fewer people, but we are shorthanded, now.
H.M.JR: Did you let anybody go?

MR. ODEGARD: Well, we have lost McCarty, for example.

H.M.JR: But there were a lot of - when I studied this thing a month or two ago, there were a lot of people doing copy work, the kind of thing they would do in an agency.

MR. ODEGARD: Oh, that - you see, the main people involved are John Legler, who is working with Syd Mahan in writing copy, preparing layouts, and so on, and Mr. Legler has gone with Mr. Mahan into the retailers operations.

Syd felt very strongly that he needed someone to help him with the retailers operations, and so he has taken all of the people who were in his shop before, they are still working with him.

H.M.JR: Do you mind if I come back at you again? If you read the thing which was prepared for me, there were twenty odd people who were trained in advertising. I am not - now, they are not trained in retail things, but they are advertising specialists. Now, if you are going to rely on the agency, I just wonder why you keep these same people - and they are very high-priced people, too.

MR. ODEGARD: I don't know how many of those people there are, because we have not taken them over.

H.M.JR: There are a flock of them. Mahan had a flock of them.

MR. GRAVES: I will go over that with Peter.

H.M.JR: These men - when you recommended them, they were there to do advertising work. Now if you need people in the retail business, I would get people skilled in the retail business.
MR. ODEGARD: Most of those that Mr. Mahan had — Mr. Mahan's orientation had always been a retailer's orientation; and most of the people that he had on his staff, even when he was doing the advertising for the War Savings Staff, were people whose orientation was toward retail operations. He has taken those people, for the most part, with him. Isn't that right?

MR. GAMBLE: He has taken four people; Mahan's group consists of four people.

H.M.JR: How many?

MR. GAMBLE: Four people. I think the thing that you are concerned with, Mr. Secretary, is that the grading of our people—

H.M.JR: Do you want to bet me on that?

MR. GAMBLE: No, I said Mr. Mahan has taken with him in the retail section, which is my department, four people, including himself.

H.M.JR: Do you want to bet on how many people he had who were getting over three thousand a month ago?

MR. ODEGARD: If you hire somebody for the War Savings Staff, the way they are classified by the Civil Service is advertising specialists.

MR. GAMBLE: That is what I wanted to say. We have people who know nothing about advertising, classified as advertising specialists.

H.M.JR: This gives the background on each fellow. I read it twice, because the first time Harold wasn't satisfied. You wrote it three times, didn't you?

MR. GRAVES: We did it very fast a couple of times and finally had it done more carefully.
H.M.JR: The three of you take a look at it. I would be curious to know just what happened. If they are doing an honest day's work, fine, but I just - when you have a reorganization - I just wondered if all of these people were round pegs in a round hole. I have nobody in mind; I couldn't give you a name.

MR. GRAVES: There were, as you say, a long list of people. Take, for instance, Duffus' outfit - a lot of these people - we have sent how many of those people to the field?

MR. GAMBLE: Nine.

MR. GRAVES: They have been sent to the field, out of Washington, where they are working on state organizations. That whole thing has been much improved since--

H.M.JR: How is your over-all payroll in Washington?

MR. GRAVES: We have about three hundred and fifty people. It is about the same.

H.M.JR: About the same?

MR. GRAVES: About the same. We are intending to cut it down somewhat. Our budget estimate, as I remember, was three hundred and thirty-four people, so we are pretty close to our estimate.

MR. ODEGARD: As a matter of fact--

MR. GRAVES: We have added to the Farm Division, as you know, and some to the Women's Division, and some to the Educational Division. None of those are included in this figure of about three hundred and fifty.

MR. ODEGARD: I was just going to say, as a matter of fact, that in the advertising section,
this Mr. Mahan had it set up there with not very many actual production people; that is, there were people who were mainly advertising managers and that sort of thing. We had a few like Legler, who was writing copy, and he still is helping Mahan on preparation of retailers copy. We had Sherry King, and I just don't know what we were going to do with Sherry King. I have talked to Vince Callahan about it. Sherry was writing copy. Dun Laney is another. I can give you the names of all the people.

H.M.JR: They don't interest me. It is just - I am being a little - should I say--

MR. GRAVES: Economical, that is right. We all try to be.

H.M.JR: Pre-Pearl Harbor.

MR. GRAVES: That is our slogan - to be economical in this thing.

H.M.JR: Every once in a while I still think that money is money.

MR. GRAVES: You are thinking maybe of the OWI?

H.M.JR: No, no, I just - I mean, we are here. I had it on my mind. Peter said some time he would tell me. He hasn't had an opportunity to, and I just wondered what happened in this reshuffle.

MR. GAMBLE: At least ten of the people which you read on that list are no longer on that list. Two of them have been discharged and eight or nine--

H.M.JR: And the advertising thing, now, is all under Callahan?

MR. ODEGARD: Yes.

MR. KUHN: Tom Lane of Callahan's shop will be the contact man with the Advertising Council.
H.M.JR: I read your memorandum. It was a good memorandum; if it works like that it will be wonderful.

MR. KUHN: That is what we hope it will do. We didn't make any claims.

H.M.JR: I say, if it works like that--

MR. KUHN: That was the setup with the Advertising Council - not only on war bonds, but on tax notes, F and G, and so on.

H.M.JR: O.K. Peter wants to see me.
TE NTATIVE AGENDA,

PROPOSED MEETING OF STATE ADMINISTRATORS.

(Oct. 15 - 17, at either Kansas City or Chicago)

I - In General Meeting

Opening statement by Mr. Graves (to be prepared in advance and read)

(1) Review of progress.
(2) Program for the future.
(3) Statement of Secretary’s policy.
   (See attached rough outline.)

II - In Group Meetings conducted by Messrs. Gamble, Odegard, and Coyne, and participated in by various members of the Staff according to subject.

Discussion leaders indicated.

(1) Payroll Savings (Engelsman)
   (a) Objectives: All remaining companies to install plans.
      90% employee participation
      10% of gross payroll
      Expedited delivery of bonds
   (b) Methods of promotion

(2) F and G Bond promotion (Gamble)
   (a) Prospect lists
   (b) Direct mail and other advertising
   (c) Canvassers
   (d) Follow-up

(3) Farm Program (Myers, Partain)
(4) Women’s Program (Odegard)
(5) Schools at War (Odegard, Anderson)
(6) Labor (Houghteling)
(7) Negro Activities (Houghteling)
(8) Special Events (Gamble, Duffus, Welch)
(9) Retailers Activities (Gamble, Mahan)
(10) Sales Outlets (Gamble)
(11) Advertising, Publicity, and Promotion (Odegard, Callahan, Thomas)
(12) Miscellaneous (Odegard, Coyne, Gamble)
October 8, 1942
10:32 a.m.

Allan Sproul: Good morning.

HMJr: How are you, Allan?

S: All right. How are you?

HMJr: I'm all right. How are things going?

S: Well, there's - there's not much doing yet. The reaction in the market is about the same as in our discussions of the issue before it came out.

HMJr: Yeah.

S: Some think it's fine. Some think it's lousy.

HMJr: (Laughs)

S: (Laughs)

HMJr: That's all right.

S: But they're going to work on it. The only reaction on the outstanding market is that some of the ones and a half notes and some of the two's of December are beginning to come in for sale, which was to be expected, and we'll be in there taking those up.

HMJr: (Laughs) Well, you did a - quite a job yesterday.

S: Yeah, we got to work yesterday.

HMJr: Right, and I suppose....

S: And I think we'll do some more today.

HMJr: Good for you. Well....

S: And we're - we're getting our - both the dealers, the banks here, and also, as far as this district is concerned, our people out through the district to go to work on it.
HMJr: Well, if anything happens that disturbs you, will you call me yourself?
S: I shall.
HMJr: I thank you.
S: All right.
October 8, 1942
3:40 p.m.

HMJr: Hello.
Operator: Mr. Sproul. Go ahead.
Allan Sproul: Hello.
HMJr: Allan?
S: Yes, Mr. Secretary.
HMJr: Well, the bond market looks much healthier today, doesn't it?
S: Yes, and I have Mr. Rouse right here. He tells me everything's under control today.
HMJr: Good.
S: And, of course, it's too early to tell about the subscriptions, but the market is in a good frame of mind about it, I think.
HMJr: Well, I suppose that stock market cheered them up a little bit.
S: Yeah.
HMJr: And they can't help but be influenced, can they?
S: No.
HMJr: What?
S: No.
HMJr: And - well, I - I - I feel - I feel all right today.
S: So do I. Mr. Rouse can tell you what's happened in the market if you want.
HMJr: I would, please.
Robert Rouse: Well....
HMJr: Hello?
R: The - the reception on the two - on the two's, of course, was a little cool. They'd been hoping for a two and a quarter.
HMJr: Yeah.
R: The - a number of people, of course, sold to make room....
HMJr: Yeah.
R: ....hoping to get that.
HMJr: Yeah.
R: But they came in to buy them back again today....
HMJr: Yeah. (Laughs)
R: ....and with a little help on our part, the quotations for the bonds out beyond the new two's....
HMJr: Yeah.
R: ....are up to eight or nine thirty-seconds better....
HMJr: I see.
R: ....in some spots. We've held the two's where we left them last night.
HMJr: Yes.
R: At the moment we're in process of buying a fair amount just at the close of the market....
HMJr: Yeah.
R: ....and the shorter bonds we've got at the same prices or perhaps one better.
HMJr: Yeah.
R: So that the whole atmosphere of the market, net changes in price, will show an increase....

HMJr: Yeah.

R: ....and no declines. There may be one or two with a decline of one thirty-second. With the exception of the one and a half, a forty-six which closed at five-seven, and they're quoted, of course, par to one now because they can buy all they want of a new issue at par.

HMJr: But I - I would say we had a good day.

R: Well, it looks like it.

HMJr: Yeah, I'd say we had a good day.

R: At the moment I think we've spent just under $50 million dollars and I suppose it will take another twenty or twenty-five before we close at four o'clock.

HMJr: Well, I would say your - that your vigor was pickin' up.

R: (Laughs)

HMJr: (Laughs)

R: Well, it's all right. I'm taking vitamins now.

HMJr: (Laughs) All right. If you run out of them, let me know.

R: All right. (Laughs)

Allan Sproul: Well, I think you're right. We've had a good day on the market so far....

HMJr: Yes.

S: ....and we'll keep watching the subscriptions to see how it comes along.
HMJr: Fine. Thanks to both of you.

Robert Hous: Oh, there's one other thing, Mr. Secretary.

HMJr: Please.

R: I think the Chase wanted you to know their subscription, which was $125 million for each.

HMJr: Mr. Bell told me.

R: Good.

HMJr: And also that message they're ready to take some more.

R: Well, I think they'd be - they'd be willing if we need some underwriting, that they'd do more.

HMJr: Well, I think that's very handsome.

R: Right.

HMJr: Thank you.

R: Yes, sir. All right.

HMJr: Goodbye.
October 8, 1942
4:10 p.m.

Daniel Bell: Dan.
HMJr: Yes.
B: The bonds are three thirty-three....
HMJr: Yes.
B: ... and the notes, two seventy.
HMJr: Good.
B: Not up so much. They're about two hundred and fifty million behind the September's.
HMJr: Well, that's all right.
B: I think so. We ought to close, hadn't we? I mean, send out the usual notices.
HMJr: Yes. Do I have to sign that?
B: No, it's just that I want your word, that's all.
HMJr: My word.
B: Okay, thank you.
HMJr: Hello?
B: Yeah.
HMJr: And I won't check up on you tomorrow on this one.
B: What do you mean?
HMJr: Oh, about Fort Dix. Don't you know you said to me when....
B: Oh! (Laughs) Yeah, that's right.
HMJr: Don't we always?
B: Yeah, that's right.

HMJr: Well, almost always. (Laughs)

B: Almost, yeah, that's right. All right, thanks.
October 8, 1942
4:34 p.m.

H. W. Jr.: Bob?

Robert Doughton: All right, Henry.

H. W. Jr.: Are you going to be busy tomorrow morning?

D.: No, sir.

H. W. Jr.: Would eleven o'clock suit you?

D.: Finest in the world.

H. W. Jr.: Well, I'll come up and see you.

D.: All right. Supposing you come to the Ways and Means Committee room over in the Capitol.

H. W. Jr.: Ways and Means....

D.: We won't be bothered there. You know, where we have our conferences sometimes.


D.: Yeah, it's on the second floor.


D.: Does that suit you just as well?

H. W. Jr.: Any place you say.

D.: Well, all right.


D.: At eleven o'clock.

H. W. Jr.: Right.

D.: Thank you.

H. W. Jr.: Thank you.
Dear Mr. Director:

I wish to acknowledge your letter of October 6, 1942, requesting recommendations for concrete regulations to effectuate sections 5 and 7 of Title II of the Executive Order of October 3, 1942.

In anticipation of your request, this Department has already formulated certain tentative recommendations for regulations which we are prepared to discuss with you. However, before making final recommendations, several decisions on major policy questions will have to be determined. I would appreciate it if representatives of this Department were afforded an opportunity to discuss these questions with you, or such representatives as you may designate.

Sincerely yours,

(Signed) H. Morgenthau, Jr.

Honorable James F. Byrnes,
Director,
Office of Economic Stabilization.

JLS:kb
October 7, 1942

TO: MR. PAUL
    MR. SULLIVAN

FROM: THE SECRETARY

Please cooperate on preparing an answer which I would like to have tomorrow morning.
October 6, 1942

Dear Mr. Secretary:

The Executive Order of October 3, 1942, provides in Title II, Sections 5 and 7 as follows:

Sec. 5. "No increases in salaries now in excess of $5,000 per year (except in instances in which an individual has been assigned to more difficult or responsible work), shall be granted until otherwise determined by the Director."

***

Sec. 7. "In order to correct gross inequities, and to provide for greater equality in contributing to the war effort, the Director is authorized to take the necessary action, and to issue the appropriate regulations, so that, in so far as practicable, no salary shall be authorized under Title III, Section 4, to the extent that it exceeds $25,000 after the payment of taxes allocable to the sum in excess of $25,000. Provided, however, that such regulations shall make due allowance for the payment of life insurance premiums on policies heretofore issued, and required payments on fixed obligations heretofore incurred, and shall make provision to prevent undue hardship."

Inasmuch as the administration of these two sections is closely related to the administration of the revenue laws, I should appreciate it if you could recommend to me such concrete regulations as you consider appropriate to carry into effect these provisions.

Section 7 by its terms would appear to affect only salaries as authorized or recognized under Title III, Section 4 of the Executive Order. Inasmuch as the recent emergency legislation seems to authorize a broader and more direct control over salaries, the regulations which you may recommend to carry out the President’s objectives, need not be limited to Title III, Section 4 of the Executive Order so long as they come within the scope of the powers granted to the President.

Sincerely yours,

[Signature]

JAMES F. BYRNEs

Hon. Henry L. Morgenthau,
Secretary of the Treasury.
Treasury Department
Division of Monetary Research

Date: 194

To: Files

10/8/42 - HDU took to Secretary's office.

Letter discussed and Secretary decided not to send.

MR. WHITE
Branch 2058 - Room 214½
Dear Mr. Eccles:

I have felt for some time that it would be highly desirable to establish the informal Fiscal and Monetary Advisory Board again as an active, consultative group. The fiscal and monetary problems confronting our Government now and during the post-war adjustment period are of such magnitude and complexity that we need more than ever to have an effective group responsible for continuous reexamination of our basic policies.

For maximum effectiveness I believe that regular meetings of the group should be held every few weeks, and special meetings when necessary. It is my thought that an agenda would be prepared in advance of each meeting, so that the members might come to the meeting informed and prepared to discuss the topics on the agenda. I assume that from time to time members will have matters which they will wish to have included in the agenda. The discussions might be particularly fruitful if, in advance of the meetings, members would exchange memoranda on the topics to be discussed.

I believe that it will be possible to cover a good deal of ground during these meetings if we confine ourselves to the larger issues which should appropriately come before an advisory board of this kind.

I am calling the first meeting for Wednesday, November 18, to leave ample time for preparation of preliminary memoranda. There is appended an agenda for the discussion at that meeting. As you will observe, the agenda is rather comprehensive. It was our thought that a quite general discussion would be appropriate to the first meeting of the Board. The range of subsequent meetings will presumably be not quite so wide.
In addition to yourself, I am sending this letter to the following persons:

Mr. Jesse Jones, Secretary of Commerce
Mr. Paul V. McNutt, Federal Security Administrator
Mr. Harold Smith, Director of the Budget
Mr. Preston Delano, Chairman of the National Resources Planning Board
Mr. Leon Henderson, Price Administrator
Mr. James J. Byrnes, Director of Economic Stabilization.

I am confident that the interchange of views which might take place at meetings of this kind could be of great service in the formulation of our basic fiscal and monetary policies during the critical years ahead of us.

Very truly yours,

Secretary of the Treasury.

The Honorable Marriner S. Eccles,
Chairman, Board of Governors of the Federal Reserve System.

Attachment
Agenda for Discussion at Meeting of November 18

1. Tax program for adoption in 1943.
2. A program for compulsory saving.
3. The place of the banks in the Government's borrowing program.
4. Problems of the debt and interest burden resulting from a long war.

It is hoped that the technical staffs will prepare memoranda on those parts of the agenda with which their agencies are primarily concerned. These memoranda should be made available to all members of the Committee in advance of the meeting and should serve as a basis for discussion.
Oct. 5

Dr. White asked that this be resubmitted to the Secretary as a possible suggestion.

Harry White, see me about the 10M2
Appended is a suggested draft of a letter which might be sent to the name indicated. I am not sure of the first name and the last name on the list, but I think on the whole it would be a wise thing to have them both included. I don't quite see why Mr. Nelson should be included since his work concerns itself exclusively with production and not with either fiscal or monetary problems. However, you may wish him to be included in order to "pack" the committee.

The Agenda is carefully designed, first, to give you an opportunity to tell the group about the status of your voluntary saving program and to indicate that you are carefully watching progress so as to be the first to speak up if it gives evidence of not yielding adequate savings. The last item is to give an opportunity for Mr. Paul—whom you would probably wish to have present—to indicate the progress on the Hill and make the group feel that they are being kept currently informed. Item 2 is to give Smith and Eccles an opportunity to make their suggestions and probably to have memoranda prepared in their shops and in the Treasury on their suggestions. Item 3 raises the question of excess reserves and implies the possibility of putting through a reduction in reserve requirements. It may also serve to put Federal Reserve Board a little on the defensive.

The idea was to get a small enough number of items on the Agenda to permit some discussion on each, and yet large enough to avoid spending too much time on any one of them during the first meeting, and also to show that there is plenty to talk about and lots of opportunity for collaboration and cooperation.
Dear 

I have felt for some time that it would be highly desirable to establish the Fiscal and Monetary Advisory Board again as an active, consultative group. The fiscal and monetary problems confronting our government now are of such unparalleled magnitude that we need more than ever the cooperative consideration by the officials most concerned with continuance of our basic fiscal and monetary policies. Moreover, the situation changes so rapidly that the consultative group concerned with the reexamination of our basic fiscal and monetary policy should meet quite often.

For maximum effectiveness I believe that regular meetings of the Board should be held every two weeks, and special meetings when necessary. It is my thought that an agenda would be prepared in advance of each meeting, so that the members might come to the meeting informed concerning the subject of the day, and prepared to discuss it. I assume that from time to time members will have matters which they will wish to have included in the agenda. The discussions might be particularly fruitful if, in advance of the meetings, members would exchange memoranda on any of the topics to be discussed in which they were specially interested.

I believe that it will be possible to cover a good deal of ground during those meetings, if we confine ourselves to the larger issues which should appropriately come before a Board of this kind. I am calling the first meeting for Thursday, May 8. There is appended an agenda for the discussion at that meeting.

In addition to yourself, I am sending this letter to the following persons:

Mr. Jesse Jones, Federal Loan Administrator
Mr. Harold Smith, Director of the Budget
Mr. Preston Delano, Chairman of the National Resources Planning Board
Mr. Leon Henderson, Price Administrator
Mr. Lauchlin Currie, Administrative Assistant to the President
Mr. Paul V. McNutt, Federal Security Administrator.

I am confident that the interchange of views which might take place at meetings of this kind could prove very helpful in formulating programs and policies.

Sincerely,

Secretary of the Treasury.
Agenda for Discussion

1. Progress of the voluntary saving program. How large a portion of savings bond purchases are reducing consumers' expenditures? When will it be possible to know whether the enlarged program of voluntary sale of war bonds has been a success?

2. Additional fiscal and monetary measures called for by the enlargement of the program of defense expenditures for the fiscal year 1943 from $56 billion to $70 billion.

3. Is the excess reserve position of the banking system appropriate to such a volume of securities as the Government will have to sell to banks during the next six months under the new program of defense expenditures?

4. The legislative status of the revenue program, especially with regard to corporate profit taxation, the withholding provisions of the Revenue Act, and the proposed Social Security taxes.
The Senate met at 11 o'clock a.m., on the expiration of the recess.

Rev. Paul V. Yinger, pastor, Cleveland Park Congregational Church, Washington, D.C., offered the following prayer:

"They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run and not be weary; they shall walk and not faint."—Isaiah 40: 30-31.

Let us pray.

In Thy presence alone, Father of Life, we see the light of truth. Thou art the Creator and the Life Giver. In Thy hands are held the fragments of our little days. We need each morning Thy sustaining strength, and every night Thy renewing spirit.

Until we see ourselves as Thy creatures our years are as grass. Unless Thy love surrounds us, a great dread commands us.

Be to us, then, O God, a bulwark in times of stress, a source of high-encircling courage, a fountain in the heat of the day, and a haven from all false fears.

Keep our minds this day from every partial loyalty. Make us sensitive to every influence of Thy spirit. May the worthy leanings of our hearts find ready expression, by Thy grace.

Hear our words and discern our thoughts, and give us of Thyself. In Christ's name we pray. Amen.

THE JOURNAL

On request of Mr. HARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Wednesday, October 7, 1942, was dispensed with, and the Journal was approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting several nominations in the Army was communicated to the Senate by Mr. MILLER, one of his secretaries.

USE OF GOVERNMENTAL SILVER—NOTICE OF HEARING

Mr. MALONEY, Mr. President, as chairman of the Subcommittee on Coinage and Philippine Currency of the Banking and Currency Committee of the Senate, I desire to give notice, through the Congressional Record, that I am calling a hearing to consider Senate bill S. 3786, to authorize the use for war purposes of silver held or owned by the United States, to be held on Wednesday, October 14, 1942, in the Banking and Currency Committee room.

This notice is given for the convenience of interested parties who may desire to appear and be heard.

CALL OF THE ROLL

Mr. HILL. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

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


Mr. HALL. I announce that the Senator from Virginia (Mr. Glass) and the Senator from Delaware (Mr. Hughes) are absent from their seats because of illness.

The Senator from Florida (Mr. Anderson), the Senator from New York (Mr. Magnus), and the Senator from Georgia (Mr. Rankin) are not necessarily absent.

Mr. McNARY. I announce that the Senators from New Hampshire (Mr. Hannahs and Mr. Toomey) are not necessarily absent.

The VICE PRESIDENT. Ninety Senators have answered to their names. A quorum is present.

APPROVAL OF ASSETS AND LIABILITIES OF THE COMMODITY CREDIT CORPORATION

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking and Currency, and the communication was ordered to be printed in the Record, as follows:

THE WHITE HOUSE, Washington, October 8, 1942

MY DEAR MR. PRESIDENT: I have the honor to transmit herewith for the information of the Congress a letter dated September 4, 1942, from the Secretary of the Treasury transmitting, pursuant to the provisions of the act approved March 8, 1938 (52 Stat. 107), as amended, an act to maintain unimpaired the capital of the Commodity Credit Corporation at $100,000,000, and for other purposes, an appraisal of all assets and liabilities of the said Corporation as of March 31, 1942. On the basis of such appraisal the Commodity Credit Corporation has deposited in the Treasury the sum of $37,915,513.68.

During the fiscal year 1938, it was necessary for the Congress to appropriate $34,285,404.73 to maintain unimpaired the capital of the Commodity Credit Corporation, and it was necessary for the Congress to appropriate for the fiscal years 1939 and 1941 further amounts of $110,590,918.05 and $1,637,445.51, respectively. The payment, made by the Corporation in the fiscal year 1940, amounting to $43,756,731.01, together with the payment for the fiscal year 1942 of $37,915,513.68, results in net expenditures by the Congress for the last 5 years amounting to $143,550,523.60.

The policy adopted by the Congress and incorporated in the act approved March 8, 1938, as amended, providing for an annual appraisal of the assets of the Commodity Credit Corporation, makes it possible to include in each annual Budget the expenditures necessary to support the program which the Corporation...
CONGRESSIONAL RECORD—SENATE

OCTOBER 8, 1942

CONGRESSIONAL RECORD—SENATE

OCTOBER 8, 1942

It is an important function of government that is being ignored with the present financial arrangements. It is a function that is not being fulfilled.

Mr. President, this is the time to ask ourselves what can be done to improve the present situation.

We have a government that is trusted by the people. We have a government that is respected by the world. We have a government that is envied by other nations. But we have a government that is not fulfilling its important functions.

It is time to ask ourselves what can be done to improve the present situation.

We must remember that the government is the people. We must remember that the government is the stamp of our democracy. We must remember that the government is the foundation of our free society.

We must ask ourselves what can be done to make our government more effective.

We must ask ourselves what can be done to make our government more responsive.

We must ask ourselves what can be done to make our government more accountable.

We must ask ourselves what can be done to make our government more transparent.

We must ask ourselves what can be done to make our government more just.

We must ask ourselves what can be done to make our government more efficient.

We must ask ourselves what can be done to make our government more equitable.

We must ask ourselves what can be done to make our government more inclusive.

We must ask ourselves what can be done to make our government more engaged.

We must ask ourselves what can be done to make our government more participatory.

We must ask ourselves what can be done to make our government more representative.

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Mr. BROWN. But the Senator from Washington (Mr. BROWN) is the first one to say that he is not interested in a rating...
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Mr. AUSTIN. I thank the Senator from Kentucky. I have observed that the Senate has a great deal to say about things, but he is a man whose mind is far more active than his words. I greatly admire him for other reasons as well.

Mr. BARKLEY. I thank the Senator from Kentucky.

Mr. LUCAS. As was stated by the Senator from Kentucky, the Federal Internal Revenue law was passed during the Civil War or immediately thereafter, for revenue purposes and primarily and solely for war purposes.

Mr. LUCAS. After the war was over and the war was over and the war was over, there was a great deal of opposition to this revenue law, which had been passed during the Civil War or immediately thereafter, for revenue purposes and primarily and solely for war purposes.

Mr. LUCAS. Assuming that to be true, the provision now proposed is to be enacted for any war purpose, but it is a principle which those opponents were attempting to enshrine which will remain upon the statute books for all time, at least until it is repealed, or it is passed by the Supreme Court of the United States and held not to be constitutional. In other words, I state the present trend of the thought of the majority of the upper House of Congress is very little to be gained from the standpoint of the people in general, or from the standpoint of those who are interested in the maintenance of the Federal Government, but the effort is now to fashion a principle not for the general public but for the use of the House of Representatives, and for the use of the Senate, for the use of any of its members, and for the use of any one member for all time to come.

Mr. AUSTIN. To my mind there is a great deal to be said for the proposition that has been adopted. I have been interested in the limitation of the powers of Congress, and I certainly do not want to see the powers of any branch of the government restricted in the enactment upon the present question.

Mr. AUSTIN. Submit that I should turn to the Senator from Kentucky.

Mr. AUSTIN. I am inclined to agree with the Senator that we should do so. It is with great pleasure that I now turn to the Senator from Kentucky, and I have the honor to present to you a proposition which is to be considered by the Senate.

Mr. LUCAS. Was the Senator necessarily in my presence in the Senate Chamber during the debate?

Mr. LUCAS. That is not necessarily in any sense part of the present debate, and it is not a question upon the very important question before us. If I thought for one moment that it was a question upon the present debate, I would not have hesitated to tell you so. That is being made to hang the balance at the present time that the Senate was only the Senate.

Mr. LUCAS. Is that the point of view of the Senator from Michigan?

Mr. BURTON. That is in a way the point of view of the Senator from Michigan. It is not.

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But it does not follow, because a tax on the interest payable on State and municipal bonds is a tax on the bonds and therefore forbidden.

It seems to me that the opinion of the Chief Justice is clear. He thought that the Pollock case was in effect, and that such a tax was forbidden.

Mr. AUSTIN. That is what he said about this case. I am his word for it. I think he said what he meant, and meant what he said, no matter what this debate may provoke.

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

Mr. AUSTIN. I yield.

Mr. BROWN. The question in the Willcuts case did not involve the interest on bonds at all.

Mr. AUSTIN. No. That is plain. We understand that.

Mr. BROWN. A man had some municipal bonds, which he sold at a profit, and the inquiry was whether the profit was taxable. The Supreme Court held that it was taxable.

Mr. AUSTIN. At the same time, it held that the income was not taxable. The Court went on to say, as it has said on a number of occasions, that in its judgment the rule in the Pollock case still applied. I have never contended anything else; but the Senator from Vermont and the Senator from Ohio are too good lawyers not to know that it is a cardinal principle that a court speaks not through its opinions, but through its actions. Since 1886, when the Pollock case was decided, it has not decided a case involving the power of the Federal Government to tax a municipal bond.

Mr. AUSTIN. Mr. President, I take issue with that last statement of ab- solutism regarding the decisions of the Court. I say that when the Court refers to the Pollock case and refers to a subsequent case, it adds to the strength and the moral authority of the principles of the Pollock case, and shows that those principles are, in effect today, after the acceptance of the sixteenth amendment, even though the Pollock case was decided before the sixteenth amendment was adopted. That is the value of those cases.

I now invite attention to another case, that of Helterman v. Mountain Producers' Corporation (303 U. S. 376). This case was decided in 1938. The Chief Justice rendered the opinion. In that case he took up the Pollock case. The immunity from taxation of such bonds was distinguished, and the Pollock case was referred to.

How far are we going with this? We are about to make a decision of the greatest importance. By our vote on the amendment of the Senator from Ohio we may, after full consideration and debate, whether we now stand for freedom, as our predecessors have stood for 180 years, or whether we are to break down one of its most essential protectors and bastions.

We are now about to decide by our vote whether we think we are wise enough to overrule the repeated decisions of the Congress relating to the sixteenth amendment—repeated every year since that amendment was adopted in 1913, and now do away with the immunity which municipalities enjoy by virtue of constitutionalism—an immunity not expressed directly in the Constitution but expressed in the lives of our people as represented by the Congress of the United States and the Supreme Court of the United States. In time of war we are to stand for freedom by maintaining freedom's bastions, or are we to stand for it by opening the door to further centralization of power and removal of the protection which the States have enjoyed against encroachment upon a function which is absolutely essential to their existence? For my part, I shall support the amendment of the Senator from Ohio.

Mr. GEORGE. Mr. President, will the Senator from Utah permit me to dispose of one brief matter and then suggest the absence of a quorum?

Mr. THOMAS of Utah. I yield.

Mr. GEORGE. Mr. President, the next amendment to be considered is on page 91, after line 13, under the heading "Credit for dividends paid on certain preferred stock." The Senator from Maine (Mr. Barlow), the Senator from Utah (Mr. Banger), and other Senators have brought the situation to the attention of the committee, and after conference with the staff and with the Treasury representatives, we are of the opinion that the proposed amendment to the committee amendment ought to be adopted. The amendment to the amendment would simply strike out the word "nonvoting" in the committee amendment. It has been discovered that under the constitutions and laws of some of the States a strictly preferred stock is given certain voting privileges. Moreover, the Securities and Exchange Commission has now acquired the insertion of a limited voting privilege in the issuance of some preferred stocks.

If that is the only feature of this particular amendment which caused it to be placed on the calendar by the consent of the Senate, to accept the amendment to the amendment, and let it go to conference. Is that agreeable to the Senator from Michigan?

Mr. BROWN. Mr. President, I am very happy to learn that the Senator has accepted the amendment to the amendment, because the situation in Michigan is similar to that in Alabama, Maine, and other States. I thank the amendment to the amendment very much to the provision, and would carry out my own original idea in presenting it to the Finance Committee.

Mr. GEORGE. Mr. President, I ask unanimous consent for the present consideration of the committee amendment, on page 91, after line 13, which has previously been passed over.

The PRESIDING OFFICER. The amendment is proposed for the information of the Senate, and is as follows:

The Chief Clerk. On page 91, after line 13, it is proposed to insert:

Sec. 106. Credit for dividends paid on certain preferred stock.

The amendment is made as follows:

"(1) Amount of credit: In the case of a public utility, the amount of dividends paid on preferred stock in excess of 8 per centum on the preferred stock.

The credit provided in this subsection shall be deducted from the basic surtax credit provided in section 106 of this title."
The PRESIDING OFFICER. Ninety Senators having answered to their names, a quorum is present.

Mr. BROWN. Mr. President, will the Senate proceed to the reading of the report of the Committee on the Judiciary?

Mr. THOMAS of Utah. I yield.

Mr. BROWN. Mr. President, I ask unanimous consent that this point of order be taken up for the purpose of considering the opinion of the Department of Justice on the constitutionality of the issue now before the Senate—the right of the Federal Government under our Constitution to collect the federal income tax from State and municipal governments.

For the benefit of Members of the Senate I desire to emphasize the conclusions reached by the Department:

The foregoing and an abundance of similar evidence permitted the conclusion to be reached in our study that the preponderant understanding that a Federal income tax would not be imposable upon the States at the time of the adoption of the sixteenth amendment was that its adoption would in all probability carry with it the prior intimation of States and municipal bonds.

We should like to reiterate, however, that the constitutionality of the proposed legislation depended exclusively upon the acceptance of the construction of the sixteenth amendment, namely, that the words "that shall be levied and collected on income, from whatever source derived, from State and municipal obligations." The majority of the Committee, and the majority of the Senate, fully interpreted the words "from whatever source derived" to mean what they say, and so interpreted clearly embrace income from Government securities. With full confidence, the majority of the Committee and the majority of the Senate justly rest upon the basic proposition previously discussed that no implied constitutional immunity from Federal income taxes on income interest received from State and municipal obligations.

There being no objection, the opinion was ordered to be printed in the Record, as follows:

DEPARTMENT OF JUSTICE.

WASHINGTON, D. C.

Dear Mr. Paul: On June 24, 1936, Hon. James W. Morris, Assistant Attorney General in charge of the Division of Taxation of the Department of Justice, transmitted to the Honorable Herman Gilpatrick, general counsel of the National Municipal League, copies of the following study of the constitutional aspects of the taxation of Government bondholders and employees. Copies of this study were also made available to the appropriate congressional committees.

You have requested our opinion on the constitutionality of the proposal by your Department to subject to Federal income tax the interest received hereafter on outstanding and future issues of State and municipal bonds, with special emphasis on legal developments subsequent to the publication of our study. We are pleased to comply with your request and submit the following views:

In our earlier study we expressed the following conclusion:

"It is believed that there can no longer be found in the decisions of the Supreme Court grounds of our error and confirm that conclusion. The trend toward a limitation of such immunity, which had developed when we prepared our study in 1932, continued without interruption to the present date."

We are, of course, no longer concerned with the validity of the Federal Government to tax the income of State officers and employees. The decision of the Supreme Court in the O'Keefe case (304 U. S. 598), and the enactment of the Public Salary Tax Act of 1939, have removed that problem from our consideration. The only remaining question is whether the income received from State and municipal obligations may be subject to Federal taxation. In the light of our earlier study, the answer is as clear and certain as the solution of any legal problem can ever be prior to a final decision of the issues by the Supreme Court. It is our considered opinion that the Congress does have the power to tax such income."

It is, of course, true that the Supreme Court concluded in Pollock v. Farmers Loan & Trust Co. (197 U. S. 128, 126). 517. 520, 521, 520 (U. S. 1961), that a Federal tax could not validly be imposed upon income derived from municipal obligations. That decision was based upon the theory that the taxing power of States and municipalities to levy tax upon income was a tax upon income derived from a source exempt from Federal taxation. The Court held that in the light of the immunity enjoyed by the States and municipal obligations, the power of the Federal Government to impose taxes upon income derived from State and municipal obligations is no longer tenable."

"The theory, which once won a qualified approval, that a tax on income is illegally imposed upon income exempt from Federal taxation, is no longer tenable."

"Indeed, in view of the construction placed upon the taxing power which the Constitution has granted to the Federal Government. The imposition of a Federal tax on the income of State and municipal employees was similarly held in the O'Keefe case not to place an unconstitutional burden upon the employees or the State itself. (O'Keefe v. Helvering & Gerhardt, 304 U. S. 405, 1940.) The Court sustained the Federal tax upon the salaries received by employees of the Port of New York Authority. The claimed immunity, if allowed, would in the Court's opinion (p. 424) have imposed "an inadvisable invasion of a principle which had been applied in the courts prior to the decision in New York ex rel. Coan v. Greaves (300 U. S. 508) and in Hale v. State Board (502 U. S. 36). There, too, it had been recognized that "income is not necessarily clothed with the tax immunity enjoyed by its source."

"The opponents of the pending proposal urge that this would result in an unconstitutional "interference" with State governments. Translated into practical terms, the interference claimed is the increased cost of public welfare programs, and the effect of placing income from private and public sources upon the same plane of equality. However, we have already indicated that any such interference would be helpful in sustaining the constitutionality of the proposed tax."

"Until the Supreme Court handed down its decision (Hale v. State Board) on November 10, 1941 (314 U. S. 1), there was room for the view that, despite the decisions affecting the constitution of the State and municipal governments, immunity from taxation might possibly be accorded to Government bondholders. Mr. Justice Stone had stated in the O'Keefe opinion, page 598, that there was no basis for the assumption that any tangible or certain economic burden is imposed on the States or their officers or employees by reason of the decision that the tax upon the employee's salary was invalid."

On the other hand, it is no doubt true that the issuing government would bear a part of the economic burden of an income tax levied upon an employee of a State or local governmental unit. Nevertheless, this Department did not attach to the statement of Mr. Justice Stone the significance that the later decisions of the Supreme Court have attributed to it. The recent decision in Alabama against King & Burch, and the doctrine the Court has established, clearly establishes that the validity of a tax upon bond interest will not be affected by the increased likelihood that the economic burden will in some measure be passed on to the Government.

The question in the Alabama case was whether an Alabama sales tax, which was to be collected from the buyer, was unconstitutional in its application to purchases of securities. The decision of the United States District Court against King & Burch is precisely the same as the decision of the Supreme Court of Alabama against King & Burch. Therefore, it is evident that the doctrine established in the King & Burch case is completely applicable to the case of the United States under a tax-plus-a-first-rate contract. It was quite clear, of course, that the entire burden of the tax was to be passed on to the investor. In fact, the Government had agreed with the contractor that State taxes, if valid, would constitute part of the guaranteed return. The investor has, in all cases, assumed and borne by the Government. Hence there was no uncertainty as to the economic burden of the tax. There is no question but that the case of James v. Doro Contracting Co. (302 U. S. 104), which involved a lump-sum contract between the Federal Government and a State corporation, is applicable to the case at bar. The point is that in the case of the State exaction, in the course of its opinion the Court made the following observation (pp. 8-9):

""A nondiscriminatory State tax upon the contractor enters into the cost of the materials to the Government, and is a normal incident of the operation within the same territory of two independent taxing sovereignties. The asserted right of the one to impose the burden of the tax as to the other does not spell immunity from paying the added costs, attributable to the taxation of those who furnish materials and services to the Government, who have been granted no tax immunity."

"Thus, the Supreme Court finally laid to rest the idea that an economic burden in terms of increased governmental costs invalidates a tax. The earlier opinion in the New York ex rel. Coan v. Greaves (314 U. S. 1) and in Hale v. State Board (302 U. S. 36), were held untenable so far as they supported the contrary conclusion."

"A decision which supports State taxation of Federal cost-plus-a-fixed fee contractors would operate at least equally to sustain a Federal tax imposed upon the State by the enacting law. Both relationships rest upon contract; one involves the furnishing of supplies and services, the other money. The tax on such income would increase the cost of governmental operation: In the case of the State tax on the Federal contractor, the Full Faith and Credit Act has enforced it; in the case of the Federal bondholders, to some extent which is difficult of precise ascertainment. Paragraphs 1, 2, and 3 of the opinion in the Alabama case, may we therefore conclude that so far as a nondiscriminatory Federal income tax upon the income from the Federal bond obligations is concerned, the economic burden is not so severe as to affect the constitutionality of the proposed tax."

"What has been said thus far as to the power of the Federal Government to impose a tax on the earnings of Government employees must also apply to the present situation. The same situations apply with equal force to all interest hereafter received whether upon future issues or upon outstanding obligations. No con-
attitudinal question as to the reformation of the United States v. Hudson (235 U. S. 498), and cases cited therein.) The proposed tax has only future income as its subject, and is therefore a direct tax in operation. It possesses the same constitutional validity as the income tax imposed by the Public Revenue Act of 1861, which was approved by President Buchanan, because the income received after 1863 by all Federal judges, irrespective of the date of their appointment to office.

One brief observation, however, seems appropriate.

At the hearings last month before the Committee on Ways and Means of the House of Representatives reference was made to the fear expressed in 1910 by then Governor Hughes, of the York, that the proposed sixteenth amendment would authorize the taxation of interest received from States and municipal obligations. Reference was also made to the subsequent assurances of Senator Root and Senator Borah leading to the conclusion that the amendment was adopted by the interests of the States with the views of the last two in mind. The statements of Governor Hughes and of Senators Root and Borah, and of many others, were observed upon our study. It is significant that a large number of public officials (some agreeing and others disagreeing with the interpretation placed upon the amendment by Governor Hughes) urged that if the Hughes construction was correct, it meant the adoption of the amendment. Among those was Frederick M. Davenport, to whom Senator Root's letter had been addressed, and Senator Proctor of Nebraska, who was the father of the joint resolution submitting the amendment to the States. It is also significant that the Senate rejected the amendment in 1910 after the message of Governor Hughes, but ratified it subsequently under the advice of C. Claytor, John A. Dix, who vigorously championed the broadest interpretation of the amendment.

The foregoing and an abundance of similar evidence were sufficient to be reeled in our study, so that the preponderant understanding of the States at the time of the ratification of the sixteenth amendment was that it did not prohibit the States, by their taxing power, to tax the income from State and municipal bonds.

We should so construe, however, that the constitutionality of the proposed legislation does not depend exclusively upon the acceptance of our construction of the sixteenth amendment, but upon the determination of the question whether the tax 'from whatever source derived' means exactly what they say, and as so interpreted clearly at all events, yield to the power of the States as a subject of interest tax.
the pay of a fellow professor in a neighboring institution was taxed.

I cannot even understand the basis on which certain deductions are allowed. I cannot understand why— and perhaps, is an argument in favor of a tax on gross income?—if I give a dime to someone who needs it badly, I cannot be allowed a deduction in computing my tax, but if I give the dime to an immediate agency, then I am allowed the deduction of the amount. In the case of the beneficiary will probably receive only 9 percent of the dime. That is one of the simple things to which, in course of events, many lawyers who read decisions over and over again, never pay attention.

Mr. BROWN. Mr. President, will the Senator permit an interpolation there, to allow me to illustrate a quotation from an editorial in the New York Times which says almost the same thing the Senator is now saying?

Mr. THOMAS OF Utah. I should be glad if the Senator do so, but I did not read the editorial.

Mr. BROWN. It is so close to what the Senator has stated that I think it will illustrate argument. This would be at the time the sixteenth amendment was under consideration. Would the Senator mind if I read it?

Mr. THOMAS OF Utah. I should be glad to have it read, the Senator do so, but I did not read the editorial.

Mr. BROWN. The New York Times in an editorial published on March 3, 1910, said:

The question regarding the constitutional amendments prescribing the Federal Government to lay a tax on incomes “from whatever source derived” is not a question regarding the conflict of laws, or for the construction of an obscure statute, involving difficult question of principle. It is a question addressed to the nation in the street regarding the adoption of a new policy as to which his views should and will prevail. It is a question without root in the past and looking with hope for a future. The Supreme Court might perhaps listen patiently to such an argument as Senator Root’s, but the men of the New York Times will pay no attention to it, and should not.

It is not a question for the Supreme Court. One man is theoretically some compromise or some assurance under which the people can subscribe, but I suffrage to say whether the proposed constitutional enablement of the taxation of incomes from all sources which means that incomes from some sources are not included, because they were not included when the Constitution was adopted. The votes and the intelligence of the common people will and should settle this question. Indisputably they think and have a right to think that the properties of the United States may tax all incomes. The four words mean the same after the 4,000 words of Senator Root’s argument as before. It is not to be made not to be made anything different, except by technicalities which can only prevail at the cost of destroying the people’s will.

It is only necessary to find the meaning of a few key words, and they are to be understood by bringing in by brutal and spontaneous interpretation as would be used in the case of personal and particular instances. This trouble can be made by understanding the people’s will, through their Representatives, vote on the income tax who will never see Senator Root’s argument, and who ought not to be troubled with the jejune and incomprehensible language being the very thing in question. To argue that some sources of income will not be taxed, that some sources ought not to be taxable, or because they have not been taxable before, is beside the point.

Mr. THOMAS OF Utah. I thank the Senator, and I appreciate his reading from the editorial. I know that in the way it is done in the street, I do not for a moment discount the type of deduction made by the man in the street, because our Government operates as a result of the understanding of its citizens. Men do not go to the ballot box and weigh every argument in favor of this man or that man. They vote in favor of the man who they believe represents the American system of government.

I said in the beginning of my remarks that, with the consent of some stimulus. I think that the two recommendations of the Finance Committee which I am now discussing, come as the result of long study and because that committee has consistently tried to make the income tax as fair and a just tax, the two additional make it a fair tax and a more just tax.

The arguments, Mr. President, about our Federal system, about the destruction of sovereignty, about the rights of the States and of our States by taxing a person’s income which is received from a State bond, does not appeal strongly to me. We sometimes say we are taxing State bonds; but there is no tax on the bond itself; the tax is on the individual income derived from the bond. There is a difference, and we should not allow our words to be confused in that respect.

It has been stated so many times that our Government would be destroyed by some act that I marvel that it is able to exist at all. Consideration has been done within the States for 3 years in merely getting rid of various exceptions. In each instance the same argument was used that is now presented; yet the Federal Government has not been destroyed, the powers of the State legislatures have not been disturbed, and the power of Congress has not been greatly developed; but there is more justice in the land and there is a better understanding of the people in regard to the fundamentals of our constitutional system. Every time the Federal Government has stepped forward with some great act which has made the continuous development of our country possible; we have met with the same sort of argument. Lincoln thought that if we could fight to save the Union surely we could spend a little money to build a railway, in order to keep the country knit together. Some contended that was unconstitutional. Consider the road program; think of the argument back in Jackson’s time, think of the argument in Wilson’s time. Wilson’s program was unconstitutional and that the States would be destroyed if the Federal Government stepped in and built a road in a State without the State’s consent. Of course, it is the State consent our whole system would have become of our automobile industry, indeed, we would have had any automobile industry, if it had not been for the statesmanship of those men who solved an impossible situation? Some States could not build roads. How, in the wide world, could the State of Nevada, with its meager population and wealth, build a road connecting the coast of Utah, Idaho, and without some kind of Federal assistance? Who would use the road that went across Nevada, would it be the people of Nevada? No. Roads are built for all the people.

Mr. President, the American Union cannot be destroyed by uniting the people. That is physically impossible. I stand for the change upon the proposals advanced by the Finance Committee because they are a step forward in the taxing process.

We were told by President Buchanan that the Federal Government could not help the States in their educational programs, and he vetoed the Federal land grant act; but a greater statesman took the place of President Buchanan, and the States were brought into existence the Federal land-grant colleges.

Was the Union destroyed because some new States and new Territories were allowed to educate their people on the same basis with the richer communities? What would our government have been, what would have become of this Federal organization which, it is said, is going to be destroyed? The Congress of the United States suggests that John Doe, who owns a city bond, shall pay an income tax on the interest he derives from the bond, just as he pays an income tax upon the dividend of the corporation situated in the same city which issues the bond?

How is the Federal system to be destroyed in that way? What is the Federal system? Does a national bank organize a state made up of 48 separate States like 48 blocks which can be picked up and divided and thrown around? That is not a reasonable conception of the Federal system. If no man understands better than I do the contribution to the science of government and the art of politics made by the master minds who framed our Federal System, the great theory there should be one government dealing with those affairs which were common to all the people, and a separate government dealing with those affairs which were common to just a few people. That is the essence of the Federal system. One division as dependent upon the other.

When the fourteenth amendment to the Constitution of the United States was written, what a wonderful thing it was to exist. It was the idea of existence a definition of American citizenship. The fourteenth amendment is generally looked upon as an amendment which gave us a false doctrine in regard to the sovereignty of the States, but it made possible ultimately for the poorer persons in the poorer and the weaker States who are underprivileged because of the places...
To encourage investment in productive enterprise, the tax-exempt privileges of future Federal, State, and local bonds should be removed.

I read again:

To encourage investment in productive enterprise, the tax-exempt privileges of future Federal, State, and local bonds should be removed.

The distinguished Senator from Vermont [Mr. Austin] said this morning that people had not voted on this question. Mind you, this Republican Party did not make a plank like this at all. They had no plank dealing with the subject. But the people of the United States—and I, myself, heard it mentioned from the platforms during the campaign—depended upon this plank, and thought that at last the income from the $18,000,000,000 of bonds was going to be taxed. Yet, with amusement, I listened yesterday, as I have this morning, to Democratic Senators arguing against taxing such income, when, as a matter of fact, they were elected upon this very plank.

In my judgment, if the Senator will give me more time, it is exactly on a parallel with what happened here some months ago, when Wendell Willkie was before the Committee on Foreign Relations and was questioned about what he will remember, by the distinguished Senator from Missouri [Mr. Clark], and was asked about the various speeches he had made. It will be remembered that he said: "It seems extraordinary.

Mr. BALL. Mr. President, will the Senator from Utah yield?

Mr. THOMAS of Utah. I yield.

Mr. BALL. I have heard the statement just made by the Senator from North Dakota repeated so many times that I am tired of hearing it. I was in the committee hearing when Mr. Willkie was questioned, and what the Senator has repeated is not a correct quotation.

Mr. LANCER. I will say to the distinguished Senator from Minnesota that before I rose on the floor today, I consulted the distinguished Senator from Missouri [Mr. Clark], who, I am sorry to note, is not present. I particularly inquired of him as to exactly what had been said, and he replied that Mr. Willkie not only said, in response to his interrogation, what I have quoted, but that when the Senator from North Dakota [Mr. Nygren] repeated the question, Mr. Willkie made the same statement. I was not a member of the committee, but my information on the subject was received from the Senator from Missouri [Mr. Clark] only a few moments ago.

Mr. President, it does not make any difference to me. I am neither a Republican nor a Democrat. However, I am interested. In the amendment under consideration, the party said that the Senator from North Dakota had in its State plank almost identical the same language that is in the Democratic national platform, and, if, for one, believe in living up to the platform, it concerns me. I believe the people have a right to depend on the platforms which the various political parties adopt, and, so far as I am concerned, I intend to carry out the pledge I made to my people and vote against the amendment.

Mr. BURTON. Mr. President, will the Senator from Utah yield?

Mr. THOMAS of Utah. I yield.

Mr. BURTON. I like to comment briefly upon the statement which has just been made by the Senator from North Dakota in connection with what he read from the Democratic platform. I assume he will regard me as being bound by that platform.

Mr. LANCER. I stated that it was not in the Republican platform. I understand the Senator from Ohio is a Republican.

Mr. BURTON. That is correct. In interpreting the Democratic platform, I believe that the members of the Democratic Party intend to abide by the Constitution of the United States, and, therefore, even though they may have placed that plank in their platform, not fully appreciating at the time its effect upon local governments, I think it may be assumed that they expect to proceed in a constitutional manner, and, under the decisions of the Supreme Court, the amendment presented by the committee is unconstitutional. If they proceed by a rule not indicated in their platform, then they would proceed by way of proposing a constitutional amendment.

Mr. LANCER. I agree to that. They can do it either by adopting the amendment here and the Supreme Court holds it to be unconstitutional, then certainly they would go ahead and submit a constitutional amendment.

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

Mr. THOMAS of Utah. I yield.

Mr. BROWN. I call attention to the fact that, as I stated yesterday, although I did not have the exact language at the Republican National Committee, headed by the late Dr. Glenn Frank, in its report to the Republican National Convention used the following language:

We favor elimination of all tax exemptions of future issue of Federal, State, and municipal securities.

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

Mr. THOMAS of Utah. I yield.

Mr. BURTON. The report to which the Senator from Michigan referred was a report of a committee of the convention. The convention did not adopt that report on that point, but even that committee, I think, in its report, advocated only procedure by a constitutional amendment. The committee, of which the Senator from Michigan was chairman, which made an investigation some time ago of this matter, reported to the Senate a measure providing for taxation of State tax-exempt securities. I believe it would have been 4 to 2, but when the measure came before the Senate, the State itself voted against such taxation by a vote of 24 to 20.

Mr. THOMAS of Utah. Mr. President, I am giving the Senator from Michigan a very clear warning, not because I propose to answer it, but because I am the least any incident. I think...
the Senator will grant that if we are acting unconstitutionally today, we probably acted unconstitutionally at a time when McCulloch was not in the same position, and the same actions which were sustained by the court by reversals or at least by an evolution of the Court's ideas of the Federal system.

In 1823 I had a discussion with the chairman of the Senate Judicature Committee. We introduced an amendment to the Constitution providing for overcoming the various exceptions in regard to bonds. I took the stand that a constitutional amendment was not necessary, but I believe that a constitutional amendment is necessary to overcome the decision of the Supreme Court. Since its creation the Supreme Court has heard and considered only real cases.

Through its whole history it has refused to go into the field of advisory opinion. Every decision handed down by the Supreme Court is a decision dealing with a particular case. It is true that the dicta and the words of the judges in arguing the decisions have become the dominating thought, but the dicta have not changed the dominating law of the land. If they had we would have had confusion worse confounded, and it would be impossible for any court to overcome a previous decision when we would find itself engaged in such conflict of logic that it would forget the cause of it.

Mr. President, we all revere Justice Marshall, who wrote the opinion in the McCulloch v. Maryland case, but in that case he happened to make a statement which has been made the foundation for more false argument than probably anything else that Marshall ever said. He handed down a truism soon misquoted, a truism which is valid only to a certain extent, a truism which is utterly invalid in the experience of the United States.

The power to tax—

He said—

involve the power to destroy.

Soon politicians and judges were quoting Marshall's words as—

The power to tax is the power to destroy.

We know that taxation has been used in our own Government to destroy. But if, as argued, American liberty and the American federal system, the sovereignty of the free States, had depended upon a truism which is valid only to a certain extent, our Government would have hung by a thread so thin and so narrow that it would have disintegrated long ago.

If the power to tax is the power to destroy, the States would have been destroyed time and time again.

Back in the last war I happened to be on a State pay roll. I would buy a railroad ticket and would not have to pay a tax. I would buy gasoline in a car and did not have to pay the gasoline tax. I would buy tires for the State car and did not have to pay a tax on the tires. There were exemptions, exemptions, exemptions. We went to a court—but someone made a ruling that we dare not get into that field— we dare not—because Marshall away back in the McCulloch case said—

The power to tax is the power to destroy.

No, Mr. President, he did not say that.

He said—

The power to tax involves the power to destroy.

Now we have changed all those things without destroying the sovereignty of the States. We have provided for the taxation of State salaries without destroying the power of the States. The only thing left is the taxing of the income on tax-exempt bonds.

Mr. President, what municipality in the United States is going to be destroyed if we start taxing John Doe because he receives some money from a municipal bond? Name the town, name the city, name the State. By a stretch of the imagination one can assume, I suppose, that all States and all cities are operated entirely on borrowed money; but they are not. Taxation of such income does not destroy the power of the local taxing units. It does not interfere with the taxing power of the States. The argument is fallacious, just as fallacious as it has always been, when it has been put forth to stop some kind of improvement on the score that the power of the States would be destroyed.

Mr. President, in the past 4 or 5 years we have gone forward with a type of cooperation between States and the Federal Government which may be spoken of as a system of borrowing money from the Federal Government instead of from private concerns. At any rate, most of the public-works program of the last several years has been built upon a cooperative system. There is no doubt that that system will be continued, first, because it represents an evolutionary notion.

Mr. BAILEY. Mr. President, if I had a share of a bond stock which paid me a dividend, and my State took some of the dividend money in taxation, that would not be a tax upon the bank.

Mr. BAILEY. Does the Senator dispute that the income of a city security or a State security is a tax which is taking by a Federal act from the city or the State, as the case may be?

Mr. THOMAS of Utah. It is taking State money, I grant, but we tax salaries of State officials, and that money comes out of taxes imposed by the State.

Mr. BAILEY. But the State is not under necessity in that case. It does not have to raise the salaries. That is a matter of discretion with the State. The State issues bonds of necessity. They are necessary for necessary purposes. The city issues bonds of necessity. It does not do so by choice; it is because of necessity, by reason of the growth of the city, for the construction of roads, etc.

Mr. THOMAS of Utah. I cannot understand the logic of the Senator. Surely it is just as necessary to pay the salary of the governor of the State. His salary may be paid with money raised from the sale of bonds, but no State does so.

Mr. BAILEY. I know that the Senator is a very able scholar and a thoroughly reasonable man. He draws a distinction between taxing the income from a bond issued by a State and a bond issued by the Governor of a State. We take nothing from the State when we levy a tax on the salary of the Governor. If the salary is $10,000 and we take $4,000, the State continues to pay $10,000 for services of the Governor. But when the State issues a bond, if the bond is subject to taxation, every purchaser knows it. The State must sell the bond for less or pay a greater rate of interest. It is a case of necessity.

Mr. THOMAS of Utah. Granted; but I have sold bonds, and I have carried in the same portfolio bonds of this district and bonds of other States which I have sold on an equal basis. We are not able to put them on an equality. Let us take the State of Utah and compare it with the great State of Virginia, for example. Under the Senator's theory, in which we must act more or less reduced from the sale of bonds because, in theory, the man to whom the bonds are sold—

Mr. BAILEY. My very able friend sees the difference, without reflecting on a
Mr. Bailey. Of course, there are other things; but once we enact the proposed legislation, this factor will be constant in all cases. 

Mr. Thomas of Utah. Mr. President, without wishing to prolong the argument, let me say that if this year I buy a $100 bond which pays 5 percent, and next year the interest is only 3 percent, I realize that there is a difference. We are talking about different things. Incidentally, I did not say a word about the income tax. That is a difference. That is one of the arguments which I put forward. That is why I favor the gross income tax. All the logic in the world cannot remove the fact that the income tax is on the person who receives the income, and not upon the bond, regardless of the consequences upon the bondholder.

Let us suppose that I own a $100 municipal bond, and a $100 bond of a corporation within that municipality, such as the Utah Water Company. On the one hand, I pay a Federal tax, and on the other I pay no Federal tax. If we change the illustration and consider two persons, one of whom owns the municipal bond, and the other owns the bond of the corporation, we have one person who is exempt from taxation. Each receives exactly the same amount.

As I understand the sixteenth amendment—whether it would see it, probably, and not as a judge would see it in handing down a particular opinion—the theory was to permit the Federal Government to tax the income of persons everywhere, from whatever source derived. That is the way I read the sixteenth amendment.

Mr. Bailey. That may be the current view, but I do not think it is a view to which we have all been accustomed. The sixteenth amendment says that the Congress shall have the power to tax incomes from whatever source derived; but it has never been understood—and the contention is satisfactory to me—that that amendment must be read in connection with the whole Constitution. I think it can be contended with reason and force that it was never intended that we should tax the securities of cities, counties, or States as though they were corporations. I think the Senator is unhappy in undertaking to put them in the same category. The United States Steel Corporation is not a corporation engaged in an industry. However, a State is a body corporate engaged in government. That is the great difference. I have heard many a man say that a city should be conducted like a corporation; that a city is a corporation, and all the citizens are stockholders. That is a very superficial view. It may make an illustrative appeal to some audience; but a corporation is one thing and a government is another.

I do not believe the Senator is safe in undertaking to proceed on the idea that the principle in the matter of taxation, at any rate, between taxing income from the securities of a corporation and the securities of a city, which is in corporate form, but of which the interest is paid by another corporation. The Senator, I think, is mixing up with the fact that there is involved in a city all that is involved in the concept of government; but in a corporation there is involved the concept of managing a special interest.

Mr. Thomas of Utah. However, through legal definition most cities are corporations.

Mr. Bailey. Cities are incorporated, but that does not make them corporations.

Mr. Thomas of Utah. I agree with the Senator. I should go even further and say that no two city corporations are organized exactly alike. They are complex corporations; and therefore a rule on taxation may work in one community and may not work in another, and the act of the city corporation. In one city there may be a city waterworks, a city streetcar system, and various other facilities owned by the city, which makes all the difference in the world.
what lower price, as we do, because the Federal Government says that the income from the bond issued by the internal revenue will not be taxed, of course this is valid. The purchaser pays more money for the bond because he can sell it for more money, and so on, and so forth. However, the Federal Government is in the least responsible for the situation, and historically it is not legally responsible for abolishing that advantage, and it is its absolute right which I think is just.

Mr. BAILEY. Mr. President, let us consider a bond which yields 2½ per cent net. Let us say it is a city bond. If we were to impose a tax upon it, that it would yield 2½ per cent or 2 per cent or 1½ per cent, according to the income of the purchaser, because we have graduated rates, immediately the purchaser would bid less for the bond unless the city raised the rate. There is the act of imposition. The starting point there is what the Federal Government did. The Senator will agree with me that the bond might fall 50 per cent, and the rate of return might vary with the war news.

However, here is the constant factor: If, as soon as the tax is imposed upon it, it comes from the market at 2½ per cent, at once the number of buyers in the market is reduced. At once we reduce the number of such buyers, and at once we reduce the par value. That is reflected either in selling at a premium or in selling below par.

I think that situation is what activated the committee in herefore exempting the income from bonds previously issued. The banks and insurance companies are filed with them. They have been the great purchasers of such bonds. If we take the income tax and impress the income tax on the capital of all the thousands of banks and we injure a great many insurance companies. However, that is behind us.

This tax would and run directly into the proposition that any tax which may be levied under the authority of the bill which is before us will be reflected in an increased burden upon the city, the county, or the State, and that will be a burden upon the people of the city, the county, or the State, and by no means a burden upon any wealthy man who buys the bond.

Mr. THOMAS of Utah. I am sorry that the Senator used that last sentence if he was answering me, because I made no argument about what the way we would make.

Mr. BAILEY. I am responding to the general argument; I did not hear the Senator from Utah say anything about it. That is the general argument.

I shall not interrupt the Senator another time. I should like to say that I think it was the Secretary of the Treasury, Mr. Andrew Mellon, who first recommended such a tax. I have not seen the report, but it was before the committee. He made a report as a subordinate, that it would be unfortunate for the Federal Government to stand by and to permit a great body of tax-free securities to be outstanding for people to buy and thereby escape taxes. Mr. Mellon was an able financier. I understand that bond made $100,000 or $200,000,000. Of course, I do not profess to be in any such class. However, I think he was mistaken. I do not think we are proposing to take money from wealthy men by way of taxation. I do think that we are proposing to necessitate additional burdens of taxation upon the people who would have to bear the tax-burden of the cities, the counties, and the States.

That is the point which struck me; but I assure the Senator that if he can convince me, I hope he will do so. I am open to oral write-offs. I should dislike to think that my mind was closed.

Mr. THOMAS of Utah. No one can convince the Senator if he accepts his logic in regard to the imposition of a burden; but I do not accept the logic in regard to the imposition of a burden so far as one being imposed by the Congress of the United States is concerned.

Mr. BAILEY. I beg the Senator's pardon. If I lay a tax on United States Steel it can pass on the burden to the purchasers of steel. If I lay a tax on a city, the burden of the tax will fall on the people of the city. I think it is the imposition of a burden. I assure the Senator that I shall not further interrupt him.

Mr. THOMAS of Utah. I thank the Senator most heartily.

Mr. President, I have somewhat lost the trend of my thought, because I was referring to only two points, and I had no idea that the Senator would speak at such length.

I have commended the Senate Finance Committee for reporting the two propositions; I have done so on the simple basis that the trend of the taxing habits of the Federal Government toward income taxes has been to narrow the exemptions. I continue that line of discussion on the theory that the more universal the tax the better it is from a democratic standpoint; the fewer the exemptions the better the tax from a democratic standpoint; the fewer the exemptions the better opportunity for special privilege, special consideration, and special write-offs.

The problem, about which the Senator from North Carolina has been talking is a problem, not in law, but in simple government. It is a governmental process: Shall we have a taxing system which in theory is supposed to be equal and universal—with a graduated scale, of course—but in fact is not? That is the question. The tax imposed upon the individual, the receiver of the income. I still stand by the theory of the amendment "from whatever source derived." I think it is valid; I think it is proper.

It is because of the exemptions which have been made, it is because of the write-offs, it is because of the various amounts which can be subtracted from this man's income but which cannot be subtracted from the laborer's income, that I have always maintained that a fair, square, and just income tax is one levied upon gross income. Therefore, I repeat what I said in the beginning, that, from the standpoint of growth and development of the laboring man, the Finance Committee has done a remarkable thing by recommending a gross income tax.

I started to talk of all the incidents of war. I was reminded by the Senator from Ohio when he asked whether the Congress should proceed constitutionally or not. Of course, the Congress should proceed constitutionally; that is the only way in which it can do anything do things in a different way today than they were done before, and the Supreme Court has changed its view as to the constitutionality of the following course of action again. I have never held that it took a constitutional amendment to overcome a decision of the Supreme Court.

We have adopted constitutional amendments, from whatever such decisions, and the sixteenth Amendment is one of them, but I believe that, as a theory of government, as a theory of logic, such a procedure is sometimes unnecessary. Therefore, in the case of the chairman of the Judiciary Committee, who said that the only way we could overcome various exemptions would be by constitutional amendment, I said if we were to insist on the question by the court we could overcome the exemptions by decision, because the court as constituted would not stand by the Evans case and some of the other cases. Therefore, I submitted an amendment to the tax act of 1927, providing for a tax on gross incomes. I jokingly told the Members of the Senate who were suppressors of the Judiciary Committee that I was going to write into the law the Constitution of the United States, and I quoted in my amendment the provision that there should be levied an income tax on the income of individuals, and before any reductions were made one-half of one percent.

Of course, no one supported the amendment. To the contrary it looked like a constitutional amendment. Mr. President, but after the amendment was offered and was sent to the legislative counsel, when it came back it covered 25 full printed pages. That is why I think taxing legislation has become; that is how disintegration has been setting in, and that, in a little way, what is actually happening.

Since the adoption of the sixteenth amendment we have undertaken to tax income from whatever source derived, except in the case of the salaries of judges, and of State employees, and except in the case of bonds of certain kinds. The tendency of those exemptions was to narrow the taxing field. The first requirement of any government, if it is to grow and develop and stand up to the up-to-date world constantly and everlastingly, it is an old truism that government must not tax that which produces but that which is produced, because when the capital structure is taxed ultimately the ability to pay taxes is destroyed.

Mr. BONE. Mr. President.

The PRESIDING OFFICER (Mr. SPENCER in the chair). Does the Senator from Utah yield to the Senator from Washington?
Mr. THOMAS of Utah. I am glad to yield.

Mr. BONE. Since we adopted the income-tax amendment to the Constitution—the sixteenth amendment—has the Supreme Court of the United States interpreted the words "from whatever source derived" to afford a basis for the argument that the Federal Government cannot tax, for example, income from whatever source derived, the decision prior to the enactment of the present Income tax law? I do not recall at the moment.

Mr. THOMAS of Utah. I cannot answer that question because I am not familiar with the decisions, but in deciding the Evans case I am sure that the Court brought in other parts of the Constitution instead of the sixteenth amendment, and I am sure that the practice which grew up after the last war, when the Income tax became important, was developed entirely upon the fallacious interpretation of the decision in the block case.

Mr. BONE. I never could follow the reasoning of the Court. It seems to have presupposed theory of a contract, because the constitutional provision was too plain for words, that income, from whatever source derived, might be taxed. That does not require any interpretation, it seems to me. The people adopted that constitutional provision. So I have never been able to see the weight of the argument which has been advanced, that we have lost in inherent power to tax income. I think it is a matter of policy rather than of power.

I have not heard all the Senator's arguments, but I assume it to be that Congress has the power by legislation to tax income from whatever source derived. It seems to me there can be no question about that, and I should like to see that particular principle of law laid at rest for once and for all. For that theory which has been advanced that under the sixteenth amendment we cannot tax income from any source is fallacious.

Mr. THOMAS of Utah. I think the Senator from Michigan has a better answer to the Senator's question than I have, and I will ask him to reply to the Senator.

Mr. BONE. The case of Evans v. Gore (233 U. S. 245, 1920) was a case involving the salary of a Federal judge. In that case the sixteenth amendment was referred to incidentally, but the basis of the decision in the Gore case was that the salary of a judge, under the constitutional provision, may not be diminished during the term for which he was appointed. The court held—I think erroneously—that the taxing of the salary of the judge was a diminishment.

Mr. BONE. That was a refinement of reasoning. It did not lower his salary; it merely taxed it after it came into his possession.

Mr. BROWN. It taxed it just as the salaries of all other citizens are taxed.

Mr. THOMAS of Utah. As a result of the decision, the average man on the street said that the judges were taking care of themselves.

Mr. BROWN. Very recently the case of Evans against Gore was overruled in O'Malley v. Woodrough (207 U. S. 272; 1920)—directly overruled and stated by the court to be overruled.

Mr. BONE. It is very important to me, in the light of the clearly demonstrated viewpoint of the Supreme Court as presently constituted, that the court would never hold that we could not tax the salary of anyone and that decision prior to the enactment of the present Income tax law? I do not recall at the moment.

Mr. THOMAS of Utah. I should like to see it laid at rest because I know what was in the minds of the American people when they adopted the amendment.

Mr. BONE. That is correct.

Mr. THOMAS of Utah. Debating societies have talked about the Income tax and discussed the great injustice which had been done to our Government because of the Supreme Court decision. We know the various theories in regard to the Income tax which were brought into the argument in that case. It was stated that the tax would destroy our Government, destroy the Federal system, destroy everything that was good. We know of the argument advanced before the Supreme Court of the United States by a great jurist wherein he used words which shook the Nation, that the income tax was a defective device and would bring about a change in the American standard of living for which the people would not stand. Such arguments make one laugh today, and yet the same argument is being advanced against the last step in this war to overcome the extremely great injustice in regard to the srcp : of taxation.

Mr. BONE. Mr. President, will the Senator yield further?

Mr. THOMAS of Utah. I am glad to yield.

Mr. BONE. I do not believe that I am overstating the attitude of mind of the average man, but from my recollection of the argument advanced at the time the legislation of the various States of the Union voted on the income-tax amendment which was proposed to them, I think I am only stating the truth, when I say that 809 out of every 1,000 human beings who read about it and talked about it believed sincerely that when their State approved the amendment it gave the Congress the right to tax incomes in this country from whatever source derived.

Mr. THOMAS of Utah. If the Senator will read the statement of the Governor of my State to the legislature in recommending that the amendment be ratified, he will find that he argued in the legislature that the Senator has argued, that the levying of an income tax should be reserved as a system of taxation by the States; that the ratification of the amendment would take away certain powers from the States which they then had; and that if Income from whatever source derived were taxed by the Federal Government, the States would never be able to impose a State income tax.

Mr. BONE. That argument is advanced now.

Mr. THOMAS of Utah. It did not destroy the Union—although Utah voted against the amendment, I am sorry to say.

Mr. NORRIS. Mr. President—The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Nebraska?

Mr. THOMAS of Utah. I am glad to yield.

Mr. NORRIS. Suppose one were going to write an amendment which would give the authority to tax as is proposed in the committee amendment, I wish the Senator would tell the Senate what language he could use which would be clearer, in the effort to bring about that result, than the language of the sixteenth amendment itself, "from whatever source derived." Could the Senator think of anything that would be more comprehensive? Is there a possibility of any man framing words in the English language that would indicate that power was given to tax all instrumentalities, than by the language of the sixteenth amendment itself?

Mr. THOMAS of Utah. The implication in the question of the Senator from Nebraska cannot be answered. There is no way of describing any source in language broader than "whatever source." Mr. NORRIS. Then it follows that it cannot be done, and if the Senators who have no right to impose that kind of a tax are correct, it is impossible to frame an amendment which would give us that right.

Mr. THOMAS of Utah. It would mean it would be useless to reduce laws to writing.

Mr. NORRIS. Certainly.

Mr. THOMAS of Utah. It would mean, further, that if we interpreted it loosely, even as it has been interpreted by the courts, the Constitution would become meaningless.

Mr. NORRIS. Absolutely.

Mr. THOMAS of Utah. And the Constitution becomes purposeless if, for example, we decided every constitutional question according to the last decision.
I think you have already discussed your present view on that score.

Mr. WILKIE. Yes, sir.

Senator Nye. One more assertion of yours, that of December 9, 1941:

"On the basis of his—"

That is, Roosevelt's—

"pledge to the people which he may expect we will be at war by April 1941, if he is elected."

No. 286. You asked me whether or not I said that?

Senator Nye. Do you still agree that that might be the case?

Mr. WILKIE. It might be. It was a bit of campaign oratory.

I submit, Mr. President, that that part of the Democratic platform which was adopted in 1940, on the 15th day of July, in which it was said to the people of America:

"To encourage investment in productive enterprises, the tax-exempt privileges of future Federal, State, and local bonds should be removed—"

was a definite pledge made by the Democratic Party to the people of America.

Mr. THOMAS of Utah. Mr. President, may I ask the Senator from North Dakota, since he has brought political parties into this discussion, whether there is any party in any State, or in the Nation, that would put into a platform a pledge that they expected to maintain this exemption and expect to get anywhere with the American people?

Mr. LANGER. They did, and they were elected. They were elected on the platform which they made in their platform that they would take away the privilege of tax exemption from the rich.

Mr. THOMAS of Utah. Yes, and the Republican Party would have said the same thing, but it remained silent on the subject. It did not dare say the opposite. Did it? Is there any party in the United States that would go before the people on a platform making the opposite declaration?

Mr. LANGER. I do not know about that. I know the Republican Party was silent on the subject.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. THOMAS of Utah. I yield.

Mr. CLARK of Missouri. I have been informed that a few moments ago, while I was temporarily absent from the floor, the Senator from Minnesota (Mr. Ball) denied that Wendell Willkie had made a statement before the Committee on Foreign Relations of the Senate when it had under consideration the lease-land bill.

Mr. CONNALLY. What difference does it make whether Willkie said it or not?

Mr. CLARK of Missouri. It makes some difference. The Senator from Minnesota undertook to question the truth of the statement of the Senator from North Dakota (Mr. Nye) that there was a statement in which I understand I was quoted.

Mr. President, the fact of the matter is that Mr. Willkie made the statement which has been attributed to him, not on the floor of the Committee on Foreign Relations, once in answer to a question by me, and some time later in answer to a question by the Senator from North Dakota (Mr. Nye). There is no question about what Mr. Willkie said, and if the Senator from Minnesota was present and failed to hear it, I am sure he was the only one in the large company which was present at the hearing who did fail to hear it.

Not only that but it was repeated the next day in every newspaper in the United States and was made the subject of considerable editorial comment throughout the country.

There is nothing here that is new. I am bringing this question into the discussion here today, but I take this opportunity to call attention to the fact that on the same day, in the same hearing, on numerous occasions, Mr. Willkie made a statement which was diametrically opposed to the statements which he has been making recently concerning a second front, when he predicted and asserted that a second front would not be necessary, that if we would merely send a few medium and heavy bombers, Germany could be bombed into submission in very short order, without any expeditious force whatever be necessary.

Mr. GEOEEO. Mr. President, if there is a question of what Mr. Willkie said, the Senator from Missouri is within his right to bring that fact into the discussion. I speak the facts, but I believe that the passage of the pending tax bill is more important than what Mr. Willkie said during the last campaign, or what he is saying at the present time.

Mr. LANGER. That Mr. Willkie furnishes so much text that if we undertake to debate it here we will not finish before the next Presidential election.

Mr. WALSH. Mr. President, I ask to have inserted in the Record a few of the many messages I have received from officials of the State of Massachusetts, including the chairman of one thing, that Mr. Willkie furnishes so much text that if we undertake to debate it here we will not finish before the next Presidential election.

There being no objection, the communications were ordered to be printed in the Record, as follows:

HON. DAVID J. WALSH, United States Senator, Washington, D.C.: I strenuously urge your opposition to tax municipal bonds. Such a tax would have serious effect on Boston's financial conditions. The large number of corporations and cities that are known to have given to Senate committees through Charles J. Fox, city auditor.

Maynord T. Torin, Mayor of Boston.
of increased expenditures, and a sum far in excess of what Federal Government possibly could gain for authority to tax. Examination of the record in the State house for this may reveal that the Commonwealth does not have available, or control, the taxation of other than a small portion of Massachusetts, and is primarily interested in the Commonwealth's economic development. In my opinion, it would be very definitely of injury to Massachusetts if such a proposal as that of taxing State and municipalities for such cause was made a part of Federal revenue program. It is urged that you oppose the enactment of a revenue bill which will make possible the taxing by the Federal Government of the interest on securities issued or to be issued by the State or its political divisions.

The secretary of the association, who addressed the above-mentioned, was specifically instructed to call to the attention of the Members of the House of Representatives and the Senate of the United States the opposition of the association and its members to the passage of such legislation. In their opinion such an act would be detrimental to the welfare of Massachusetts and its cities and towns and would disregard that which has made it possible for Massachusetts and its cities and towns to give its inhabitants through the years a form of benefit which has not been exceeded by any State in the Union. The inaction of the Federal Government should be held. The secretary addressed the Commonwealth of Massachusetts. Massachusetts occupies an outstanding position among the other States in her sound financial structure, and that of her cities and towns, and to expend federal aid on legislation would do more to endanger her standing than any other possible act of the Federal Government.

As a financial official of the second largest state in Massachusetts, I earnestly ask you to vote against the inclusion of taxation of municipal securities in the proposal. I hope I shall hear from you with the assurance that you will vote against a violation of State right.

Sincerely yours,

Henry A. Allen, City Auditor.

CITY OF BOSTON,
Assessing Department,
City Hall, September 18, 1942.

Hon. David I. Walsh,
Senate Chamber,
State House, Boston, D. C.

Dear Senator Walsh: The proposal to levy a tax on the income from future issues of municipal securities will place a heavier burden on cities and towns within this Commonwealth than on any other municipality within the country. This is due to the fact that since taxes are not due and payable until the end of the fiscal year, towns now 10 months of the year must finance ordinary maintenance requirements by the issuance of long-term net loans. According to the latest "Statistics of Municipal Finances," issued by Mr. Waddell in the Commonwealth in the year 1939, issued roughly in 250,000,000 temporary notes. This is an item of borrowing which municipal governments in other sections of the country do not face.

Another item of borrowing peculiar to Massachusetts is that in connection with the payments of municipal bonds. Under current statutory provisions, municipalities are required to provide a fixed percentage of the prior year's expenditures. If this requirement has been satisfied they are privileged to borrow to balance their estimated relief expenditures. In 1939 borrowings of this character were slightly in excess of $2,000,000,000. Treasury officials have claimed that the taxation of future issues will place no great burden on municipalities for the duration of the war, but any increase will be necessitated curtailed. This argument entirely overlooks the two peculiar types of borrowing already pointed out and makes no allowance for the problems which will be faced by municipalities at the close of the war. If our cities and towns are to participate in the post-war program of public works they should not be faced with the added interest burden which everyone agrees will develop if the income from municipal securities is to be subject to Federal income tax. It is a matter of common knowledge that Massachusetts municipalities are among the highest in the country in the interest of the owners of real property. I am sure that this State I trust you will see your way clear to oppose the proposal to tax municipal securities when it reaches the floor of the Senate and thus prevent the imposition of an added tax burden on our local taxpayers.

Sincerely yours,

Charles J. Fox, City Auditor.

Mr. SMITH. Mr. President, I do not wish to detain the Senate, but I feel it my duty to express my appreciation of the speech made by the Senator from Vermont (Mr. Ararat). I am surprised that the argument concerning the power of the Federal Government to tax incomes derived from bonds issued by municipalities and States has revolved around the question of the constitutional right of any State that does not concern me. I think the powers of the sovereign States, which are coordinate with the Federal Government in our dual form of government, should be kept intact. The States have the right to pass laws and levy taxes, and they feel that they are entitled to the Government, and have a right to issue bonds and to carry on their business as they see fit.

Mr. President, I have observed with a great deal of unreasonableness the gradual encroachments of the Central Government upon the States. Every move we make is along that line. I am not satisfied from Vermont. The speech he did today upheld the rights of the States, the counties, and the municipalities, which have developed so wonderfully in our country. I would rather see the chance of having the country kept on an even keel through the continuance of the power reserved in the States, in their sovereign capacity, than have this body undertake to keep the Government intact. I have always felt, if the people have elected me to this body, and are looking to us to interpret the Constitution, and to deal fairly with them. Do we take into consideration the powers reserved in the States? I doubt very seriously whether a great percentage of the mem-
I am amazed that Senators should stand on the floor of the Senate and argue over the words of the sixteenth amendment, "from whatever source derived." We can argue that language to a reductio ad absurdum.

Mr. President, I stand here today trying to keep inviolate, so far as it is in my power to do so, the right of the States to exercise the power they have heretofore had, the power held by them up to the present time, to attend to their own affairs and not be overlaid by a great central government. I believe in State rights. I believe in individualism. I am not one to decry States, for the sake of obtaining a little tax revenue, will endeavor to destroy the very essence of our dual form of government. State legislatures are rapidly becoming more powerful than national legislatures in Washington. The people of the States are not paying much attention to their legislatures any more. They are more and more looking to Washington. In Washington we have handed out benefits to the tune of several billion dollars. I do not know whether that action is constitutional or not. However, the Constitution of the United States now seems to be obscure. Every man we make is to the more to discredit it.

I am greatly concerned about the trend which the argument in the Senate has taken, that in order to obtain certain taxes the splendid system of State government be destroyed.

I hope we can vote on the Senate committee amendment today, and that it will be rejected and that the amendment of the Senator from Ohio [Mr. Brown] will be adopted.

Mr. LEE. Mr. President, I rise to speak for a few minutes in opposition to the Burton amendment, or rather, I shall speak in support of the committee amendment, which proposes to withdraw the special privilege of tax exemption from local and State bonds. In 1909 the Senate, by a vote of 77 to 0, passed a joint resolution which later resulted in the adoption of the sixteenth amendment.

The House passed the legislation by a vote of 318 to 14. Then the sixteenth amendment was referred to the States for ratification, the first State ratifying it in 1913. All but 3 of the 48 States in the Union ratified the sixteenth amendment.

The sixteenth amendment to the Constitution of the United States is one of the greatest amendments, itself, which is one of the short amendments. The language is:

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

That language is so plain that the people of the country understood it to mean that if the amendment were adopted Congress would have power to lay and collect taxes on incomes from whatever source derived. There was no quibble over the meaning of the language at that time. The people of the States sent their Representatives to the Senate and House with instructions to vote for that amendment, believing that they would thereby stop up the last loophole which permitted tax dodging. The people understood the language. It was apparently the lawyers got hold of it and began to split hairs over it that it began to have several faces and several different meanings.

Mr. President, I wish to illustrate my point. In my section of the country the preachers representing different denominations sometimes have denominational debates, which are sometimes called religious debates, and those debates were very warm. There were a debate on the subject of baptism. The debate took place under a brush arbor and great crowds were gathered. The discussion was about a preacher naming his ship along the road. He saw a eunuch of great authority riding along in a chariot. Philip thumped a ride and the eunuch picked him up. Philip noticed the eunuch was reading in the Bible from Isaiah. After some discussion the eunuch decided he wanted to be baptized, and this is the language describing what occurred.

As and they went on the road, they came unto a certain water and the eunuch said, See, here is water: what doth hinder thee to be baptized? And Philip said, If thou believest with all thine heart, thou mayest. And he answered and said, I believe that Jesus Christ is the Son of God.
And he commanded the chariot to stand still: and they went down both into the water, both Philip and the eunuch; and he baptized him.

The point of debate was who baptized who. One of the preachers raised the question by the language of the Scripture one could not tell who baptized who, because the Scripture says—

And he baptized him.

Another debate, who wanted to prove that Philip baptized the eunuch, saw a little colored boy sitting on the fence nearby and he called him.

Of course it scared the little fellow at first, and he turned a few shades lighter, but finally he climbed down off the fence and came to the platform on which the debates were held. The preacher invited him to come to the platform, which he did, and said to the boy, "Now sit down and listen." So the preacher read that passage of the Scripture to him. Then he asked the little boy, "What do you think is in your mind who was it that was baptized?" The little boy answered back without hesitation, "Well, I do not know, sir, but I think it was the man who wanted to be baptized." I use that to illustrate the simplicity of language when one wants to understand it, and the people wanted to understand the sixteenth amendment when it was ratified.

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived.

It has been argued in this debate that when we lay a tax on a man's income, simply because the man has a local or State bond, we are taxing the local government or taxing the State. Has it ever been argued, by the same token, that when we tax the income of the farmer, if any poor farmer ever had enough income to reach up into the income-tax brackets—we are laying a tax on the merchant's grocery business? It has not. When he receives an income, it is identified as his. He puts it in the bank, and he is taxed according to that income.

It is argued that by this amendment we are trying to lay a burden on the communities and States. No such thing is true. We are merely trying to withdraw a special exemption, because such things stand today and States and communities are the only authorities which can issue bonds which are tax exempt.

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

Mr. LEE. I yield.

Mr. CONNALLY. Under the Senator's construction of the sixteenth amendment, does he contend that the language "from whatever source derived" includes an income from any source?

Mr. LEE. I do not believe that it says.

Mr. CONNALLY. Is that what the Senator construes it to mean?

Mr. LEE. That is what it says. Of course I do.

Mr. CONNALLY. Does the Senator contend that under that language the Government in Maryland, which receives $100,000 in taxes from the people? That is income to the township. Could the Federal Government tax that income, or income received in the form of taxes by a drainage district, a school district, or a road district?
The sixteenth amendment says "from whatever source derived."

Mr. Lee. It says that Congress shall have power to lay the tax. If Congress shall lay the tax, I suppose it would have the right to collect it: but I do not think Congress would lay such a tax.

Mr. Connally. Why not, if the Senator wants to tax everything?

Mr. Lee. I do not want to tax everything. Would the Senator vote to lay such a tax? Such a measure would first have to pass through the Congress.

Mr. Connally. Of course. The Senate and the House of Representatives could tax the annual taxes raised in a township or city. Would he favor such a tax?

Mr. Lee. No.

Mr. President, I believe in equality. One of the things which made the tax collector in ancient history very unpopular was the inequity of taxation. The people are willing to pay taxes if they know that the taxes are levied in all fairness.

Let me illustrate the situation as it is today. I made a few computations with respect to Oklahoma. A married man living in Oklahoma who operates a store and has an income of $5,000 has to pay taxes amounting to $165.22. A man living beside him who has an income of $5,000 from tax-exempt securities, State or local bonds, does not pay a thin dime. Does the people approve that? I do not think so.

Again, if a married man living in Oklahoma has an income of $10,000 from the rental of apartment houses and other properties after he has paid his property and paying tax, he pays an income tax of $737.85: but if a man living next to him has an income of $10,000 from school bonds which he has purchased, he does not pay a thin dime. Do the people approve that? I think not. I know they do not.

Again, if a married man living in Oklahoma has an income of $50,000 derived from the oil business in my State, he pays a tax amounting to $11,132.41. If right beside him there lives a man who has an income of $50,000 from State bonds, he does not pay a thin dime. Does any Senator think that the people approve that? Did not the people have that situation in mind when they sent their State representatives to the State legislatures to vote for the sixteenth amendment to give Congress the power to tax and collect taxes on incomes from whatever source derived? I think they had exactly that in mind.

Take another example. We say we do not have a capital levy, but I maintain that an ad valorem tax is a capital levy. If a farmer does not make enough from his farm to pay the ad valorem tax, what happens? The tax assessments accumulate until he loses his farm. His farm is taken and his capital is levied upon and taken. Yet, when the Senator from Michigan (Mr. Brown) a man in the same community may have an income of several million dollars, 44 percent of which is from tax-exempt securities, on which he does not pay a thin dime of tax. However, the poor farmer who does not have enough income to get into the income-tax brackets has his farm taken away from him because he cannot pay the tax. I am not one who proposes to tax the rich. I am not either; but neither do I propose to give the rich a special exemption. I submit that this offers the rich a special exemption. Did any Senator ever hear of a poor man buying county bonds, school bonds, State bonds, water bonds, or sewer bonds? Did any Senator ever hear of a day laborer buying such bonds? Have we ever heard of any poor people buying such bonds?

Suppose a man has an income of $5,000, and he buys some 3 percent tax-exempt bonds. To him the exemption privilege is worth two-tenths of 1 percent. The Senator from Michigan pointed out yesterday that to a man with an income of $100,000 a tax-exempt bond bearing 3 percent interest is worth more than a taxable bond bearing 20 percent. Yet we are told that exemption privilege is not worth anything to the rich. I ask Senators to answer that argument.

Mr. President, from 1909 to 1913 the people approved a fair and equitable tax plan providing the people according to their incomes and their ability to pay. Congress passed the bill. The House passed it by a vote of 318 to 14, and the Senate by a vote of 77 to 0. Forty-five out of 51 States approved it, and it became law. Then it was nullified by judicial decision. The court said that it did not mean what it said. Those who today are opposing the withdrawal of this special privilege believe that the court then was right, but a later court, acting upon a case involving the salary of an employee of the Home Owners' Loan Corporation, reversed that decision, giving the power to lay taxes upon income from the Federal Government and from States.

As has been pointed out, our Democratic Party said in its 1940 platform:

To assure in productive enterprise the tax-exempt privileges of future Federal, State, and local bonds should be removed.

I do not see how any member of the Democratic Party can repudiate that plank in the platform, that pledge and promise to the people.

Furthermore, President Roosevelt, in his message to Congress on April 25, 1936, said:

Whatever advantages this reciprocal immunity may have had in the early days of this Nation have long ago disappeared. Today it has created a reservoir of tax-exempt securities in the hands of the very persons who equitably should not be relieved of taxes on their incomes.

He thereby recognized that the rich have a special advantage.

Both the Poor and the Nation are deprived of revenue upon which could be raised from those best able to supply them.

Later in his message President Roosevelt said:

Tax exemptions through the ownership of Government securities of many kinds, Fed-er, State, and local, have operated against the fair or equitable exemption of progressive surtaxes. Indeed, I think it is fair to say that these exemptions have violated the spirit but not the letter of the Constitution, and that actually giving greater advantages to those with large incomes than those with small incomes.

He later said:

I therefore recommend to the Congress that effective action be promptly taken to abate these tax exemptions for the future.

That was the request of the President of the United States in 1936. We still have not complied with it. In my opinion, here is the chance, the last chance we have of complying with his request and to terminate the tax exemptions.

In this crisis, when we are so badly in need of additional revenue, when we are so desperately seeking every dollar with which we might raise income with which to pay for this war, I am amazed and surprised to find in the Senate opposition to taxing a man's income regardless of its source.

This is our last opportunity, in my opinion, to take the first step, to close the loophole, to stop this last inequity, and to remove this special privilege to a special class.

The argument has been advanced that there is nothing of a reciprocal agreement as between the local communities and the Federal Government, that there is no reciprocity. However, let me remind the Members of the Senate that the local communities can tax the property in those communities, and that the Federal Government does not try to tax the property in those communities.

With respect to the States, the Federal Government has offered, and is willing to have, reciprocity of taxation.

The identity of the source of the income from which the individual receives the income. Does the individual have three or four different bank accounts, and when he places the money in the bank does he say, "The money in this account is mine. The money in that account came from labor, the money in the other account came from investments"? No. Indeed, he has one account, in which he deposits all his income. Shall we say that income is subject, by all the laws of equity and fairness, to pay the same tax that I pay, and that John Q. Citizen pays and that all others pay? The people expect us to levy the tax according to and certainly so now, when we are in need of revenue with which to pay for the war.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio (Mr. Brown).

Mr. BURTON. Without objection, I wish to request unanimous consent that I be allowed to have a certain matter printed in the Record. During my remarks an interjection was propounded by the Senator from Kentucky, who was unable to answer, but which the distinguished majority leader, the Senator from Kentucky, was able to answer, showing that in 1861 the Congress levied a direct tax upon the income of the citizens of the several States.

The secretary of the minority has brought to my attention an important statute which seems to me to have abear-
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...ing upon the concurrence of the Congress with respect to the matter, and permit the taxing of the States in respect to it. It is Twenty-six United States Statutes at Large, page 822, chapter 496, an act to credit and pay to the several States and Territories and the District of Columbia such moneys collected under the direct tax levied by the act of Congress approved August 9, 1861. I ask an unanimous consent to have a copy of the statute printed in the RECORD and the Territories included in the States, the Territories and the District of Columbia, but also the inhabitants who paid the tax, when they could be ascertained.

I see that the Senator from Illinois is in the Chamber. I am glad he is here, so that he will know about this act of Congress passed in 1891 recognizing the principle of immunity, and restoring what had been collected by the tax law of 1861.

Mr. President, I renew my request to have the statute printed in the RECORD as a part of my remarks.

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

Chapter 496

An act to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 9, 1861:

Approved, 1891, as follows:

Section 1. That it shall be the duty of the Secretary of the Treasury to pay to each State and Territory of the United States, and to the District of Columbia, an amount equal to all collections set off or otherwise made from said States and Territories and the District of Columbia for all money paid due to the United States by reason of the provisions of this act, and the amendments thereto.

Section 2. That all moneys still due to the United States on the quotas of direct tax apportioned by section 5 of the act of Congress approved August 9, 1861, are hereby remitted and relinquished.

Section 3. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, all sums which may be necessary to reimburse each State, Territory, and the District of Columbia for all money paid due to the United States by reason of the provisions of this act, and the amendments thereto.

Section 4. That it shall be the duty of the Secretary of the Treasury to pay to such persons as shall in each case apply therefor, and furnish satisfactory evidence that such application was at the time of the sale hereinafter mentioned the legal owner, or is the heir at law or the devisee of the legal owner of such lands as were sold in the parcels of St. Helens and St. Luke's in the State of Washington, one-half of the value assessed for the tax levied, and the proceeds of such sale, and also the money or sums held or to be held by the United States under the types of said lands in trust for such owner under the provisions of this act: And provided further, That in all cases where such owners, or persons claiming under or through them, have received any sums or sums held or to be held by the United States under the types of such lands in trust for such owner under the types of this act, it shall be the duty of the Secretary of the Treasury to pay to such persons as shall in each case apply therefor, and furnish satisfactory evidence that such application was at the time of the sale hereinafter mentioned the legal owner, or is the heir at law or the devisee of the legal owner of such lands as were sold in the parcels of St. Helens and St. Luke's in the State of Washington, one-half of the value assessed for the tax levied, and the proceeds of such sale, and also the money or sums held or to be held by the United States under the types of said lands in trust for such owner under the provisions of this act.

Section 5. That all persons who at the time of the sale hereinafter mentioned the legal owner, or the heir at law or the devisee of the legal owner of such lands as were sold in the parcels of St. Helens and St. Luke's in the State of Washington, one-half of the value assessed for the tax levied, and the proceeds of such sale, and also the money or sums held or to be held by the United States under the types of said lands in trust for such owner under the provisions of this act, shall be entitled to receive thereon such money or sums as shall be paid by the Secretary of the Treasury to persons applying therefor; and provided further, That all sums or sums of money received by the Secretary of the Treasury under the provisions of this act, shall be paid into the Treasury of the United States.

Mr. President, it is my purpose to support the amendment offered by the Senator from Ohio (Mr. McCargo), and I desire very briefly to state to the Senate my reasons for so doing.

As I view the question, it is not at all a question of constitutionality, but of the principle that the Congress has the power to tax incomes from whatever source derived, and that such power includes the power to tax income from farms, State, municipal, and county bonds.

As I see it, Mr. President, the question is purely a realistic one: Are we now to levy a tax for the purpose of raising money to defray the cost of the war, or are we to endeavor to change the system of taxation? If it were a question of raising money with which to pay for the current war, it would be quite different from what it will be; but an examination of the facts clearly demonstrates that there is no possibility of raising any substantial sum by the proposed tax.

Mr. President, it is an easy thing to assume that the wealthy people of the country have tremendous incomes from which could be drawn, and should be drawn, large sums of money to pay the expenses of the Government, particularly in this crisis. Of course, there are large incomes; but the significant fact which seems to me is that these have been utterly overlooked in that in the aggregate the incomes of the very wealthy are but a drop in the bucket.

I hold in my hand a press release which was issued by the Secretary of the Treasury on October 2, 1940, giving the following breakdown of taxable and nontaxable individual income and defense-tax returns for 1940, filed during the year 1941. The significant revelation to be found in the war today, is not the fact that during the year 1940, 1,868 persons had a net income of between $100,000 and $500,000; only 268 persons had a net income of from $500,000 to $1,000,000; 273 persons had income of from $1,000,000 to $2,000,000; 187 persons had income of from $2,000,000 to $250,000; 187 persons had an income of $300,000 to $500,000; 168 persons had an income of from $500,000 to $400,000; 86 persons had an income ranging from $400,000 to $500,000; 48 persons had an income ranging from $500,000 to $750,000; 33 persons had an income ranging between $750,000 and $1,000,000; 28 persons had an income ranging between $1,000,000 and $1,500,000; 8 persons had an income ranging between $1,500,000 to $2,000,000; 2 persons had an income ranging between $2,000,000 and $3,000,000; 2 persons had an income ranging between $3,000,000 and $4,000,000; 2 persons had an income ranging between $4,000,000 and $5,000,000; and 1 person had an income of $5,000,000 and over.

Mr. President, if my arithmetic is correct, that means that in 1940 there were 3,345 persons who had an income of $100,000 or more.
Mr. LUCAS. Mr. President, will the Senate yield?

Mr. O'MAHONEY. I yield.

Mr. LUCAS. Is that gross income or net income?

Mr. O'MAHONEY. It is net income, as figured before the deduction of personal exemptions.

Mr. President, this is the significant fact: If the entire income of those 3,345 persons were to be totaled it would be found to amount to $691,426,000. In order to obtain a true measure of that income we have to take, not the normal tax and the surtax, but the entire income of every individual in the United States receiving $100,000 or more, the total receipts to the Treasury would be only a little more than $691,000,000, and we are spending at the rate of $6,000,000 a month.

To me it seems perfectly obvious that it is not worth $691,000,000 to the Treasury of the United States to cut off the preferential treatment which, by the existing law, we give to the political subdivisions of the United States, the States, the counties, and the cities.

I am not concerned about the amount of taxes which may be paid by the wealthy, Mr. President, but I am tremendously interested in the cities, and the counties of the United States shall not be deprived of this preferential treatment. I believe that the present law grants a preference, certainly, but it is a preference granted to local political subdivisions which sadly need it in a time when counties and cities, and even States, are turning to the Federal Treasury, with its tremendous deficit, for money with which to do the things which they cannot do without such assistance. It seems to me to be of the utmost importance that we should maintain the present situation and that we should do nothing to jeopardize it. Very little is to be gained by withdrawing this preferential treatment.

Mr. President, there are in the United States about many counties as there are individuals receiving these huge incomes. I am not thinking of the individuals with the huge incomes, but I am thinking of the counties and of the market they will have and which they should have for their securities.

It was a perfectly amazing discovery to me when I found that, as a matter of fact, the wealthy in the United States receive only a very small proportion of the total income. During the studies of the Temporary National Economic Committee we published a monograph, Monograph No. 3, entitled "Who Pays the Taxes?" On page 7 of the monograph is to be found a diagram showing the disposition and distribution of consumer incomes in the United States for 1938-39. This makes, what to me, a very amazing revelation. All the people in the United States who received income of $20,000 a year, and over, constitute only 1 percent of all recipients of income, and they received only 4½ percent of the total income. I should have imagined that the total income of all those receiving $20,000 or more would amount to a perfectly amazing proportion. I thought it could not possibly be less than one-fourth or one-third of the total income of the United States, but that is not the fact; it is less than 10 percent.

Mr. O'MAHONEY. Yes; this study was made under the auspices of the T. N. E. C., in cooperation with the W. P. A., and we endeavored to find the total income.

Mr. LEE. Including the tax-exempt income.

Mr. O'MAHONEY. Oh, yes; that is my understanding. For example, let us refer to those in the next bracket, who receive incomes of $10,000 to $20,000 a year. They constitute only two-tenths of 1 percent of the number of consumer units in the United States, and their total aggregate income is only 2.3 percent of the total income of the United States.

If we were to go to the other end of the scale and take, for example, those who receive between $2,000 and $3,000 a year—a very modest income—we would find that they constitute 11.3 percent of the number of consumer units, so-called. Their income amounts to 17.4 percent of the total. In other words, the total aggregate income of persons receiving between $2,000 and $3,000 a year is almost twice as much as the total aggregate income of all the persons receiving $20,000 or more a year.

[Net income classes and money figures in thousands of dollars]

<table>
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<tr>
<th>Percent of</th>
<th>Income brackets</th>
<th>Consumer units</th>
<th>Income received</th>
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<td>17.4</td>
</tr>
<tr>
<td>II. $500 to $1,000</td>
<td>3.9</td>
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<td>17.4</td>
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<td>11.2</td>
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<td>7.4</td>
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</tr>
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Distribution and disposition of consumer income

A. CONSUMER UNITS AND INCOME

[By income brackets]
Mr. O'MAHONEY. Mr. President, I wish to make it plain that in the point of the issue before us is simply this: We are not voting for or against a substantial income to the Federal Treasury; we are not voting for or against the interest in wealth; we are voting directly on the question whether the political subdivisions of the United States shall continue to have a market for their securities, which is protected by the law.

At one time, Mr. President, when power in the United States and all over the world is being constantly centralized, I think it is the supreme duty of every citizen, especially of one who believes in maintaining the principle of local government and local authority to support local authority by preserving the law as it now stands.

Mr. LA FOLLWXTE. Mr. President, we shall never have an equitable tax system in this country until the privilege of tax exemption is withdrawn from the municipal, county, and State levels of government. It is due to the one of those privileges, with local income-tax rates inexact as individuals are concerned. In time of war, with the rates in the pending bill going to 87.4 percent on the very modest, humble Income of the wealthiest taxpayer becomes a form of special privilege. It is like a cancer eating at the vital parts of the democratic process.

I have been alarmed as I have sat in this debate today, to hear on the one hand that Senators are opposed to the committee amendment because it does not tax the income from existing and outstanding tax-exempt securities, and on the other hand to hear Senators say that they cannot support the committee amendment because it does not tax any income for the war.

I am to some extent cautious on the President. But, Mr. President, in time of war it becomes absolutely essential that we remove these special privileges.

I have prepared an amendment which provides for the taxation of the income from outstanding securities. I am sorry I am not in a position to offer it now, so as to give an opportunity to vote for it to those who have risen in this debate and to have said that if there was only some revenue involved they would be delighted to vote for the amendment.

The time has come when we should make a beginning in this direction, even if we make a beginning at the wrong end of the whole objective. Let no man doubt that with appropriations and contract authorizations now already exceeding $200,000,000,000, the time will come when if the committee amendment is enacted into law, revenue will be obtained from an income tax levied on securities which are now tax-exempt.

It is estimated that, if we were to tax the income derived from so-called tax-exempt securities under the pending bill, we would secure $225,000,000 of additional revenue. If we defeated the amendment offered by the Senator from Ohio (Mr. Burton) and begin to remove this privilege, the time will come when those who are paying the tax interest and the principal upon this gigantic industrial privilege will have no reason to cry for the retention of this tax exemption having been withdrawn.

I have been very much surprised to hear ardent advocates of the present bill fail to see this that the very thing rise on the floor of the Senate and say that the proposal contained in the committee amendment is an attack upon the rights of the States. Yesterday, one Senator who, like myself, is an ardent advocate of Federal aid for vocational education, rose on the floor of the Senate and said that he was opposed to the committee amendment because it would enable the Federal Government to secure revenue from the securities issued by his State for the support of education.

Mr. President, I say you cannot have your cake and eat it too. Either the States must assume full responsibility for meeting all the problems which go with modern society, or they must yield up an obsolete, an outworn, an unjustified special privilege.

At this time, Mr. President, when the Government is engaged in a struggle for its very life, to have special pleaders surrounding the corridors of the Capitol seeking for a roost for this special privilege is discrediting to me. This is a time when municipalities, counties, and States are no longer burdened by the problems of unemployment, and, therefore, they are no longer in the position where they must utilize their resources for vast public improvements. On the contrary, the Federal Government is shouldering the full cost of putting in the utilities for the vast defunct corporation which is being constructed, part of which is permanent in character, and is being built by private enterprise, and which will endure to the benefit of the communities in which it is to be built. For them to come here and attempt to overwhelm the Congress by their concerted drive against this proposal is to me a shocking indication that even in this hour of the Nation's necessity selfish interests and those who desire to retain special privilege are not conscious of the situation which confronts the people and their Government.

I shall be in connection with another amendment, and I venture to repeat it now, that we are in the most desperate fiscal and financial crisis that any nation in the written history of the world has ever faced. It is no answer, Mr. President, to say that a particular amendment will raise only $225,000,000, or that it will raise only $150,000,000. I recognise that as against the vast expenditures which are in any particular amendment may seem to shrink into insignificance, but if we follow that rule, we will never in the aggregate adopt a sufficiently heavy tax program to enable the Government to weather the fiscal storm and to maintain its credit. We must have the courage to strike down these special privileges, not only for the purpose of removing them as special privileges, but also for the purpose of strengthening the fiscal program of the Government for long and desperate war.

There are today approximately $200,000,000 of tax-exempt securities outstanding. Under the existing law the Government is losing an estimated $184,000,000. Under the rates in the present bill, $250,000,000, the Government will lose in this one year. This is a large slice of income, and the Burton amendment is defeated, and the principle of the Senate committee is adopted, ultimately the taxpayer of this country, who are forced to pour their hard-earned dollars into the Treasury, will be assisted by those who are escaping their fair share of taxes because of the tax-exemption privilege which these bonds have.

Mr. President, I wish to point out to you that as the income-tax rates have risen, the statistics of the Treasury Department show that not only are the wealthy individuals accumulating more and more of their income from this tax-exempt source.

In this connection I point out that in 1928, estates of $100,000 and under $200,000 had only 1.6 percent in tax-exempt securities income. In 1940 that income had risen to 3.1 percent. In 1928 estates of $1,000,000 and over derived 6.3 percent from income from tax-exempt securities. By 1940 that figure had risen to 15.1 percent.

These are the most recent figures obtainable, but I venture to assert that if we were to face up to the fact that they are today under present tremendously increased rates, we would find that this tendency of the rich and those in the upper brackets to accumulate more and more of their income from tax-exempt securities, and with the constantly rising tax rate, unless we check this privilege, the situation will become all the more aggravating.

Mr. President, I have said here tonight to the Committee on the Judicature the cases of a few individuals and prove any theory. I hold in my hand a table appearing in the hearings of the House committee. The table shows the income of 28 individuals. It shows the total amount of their incomes. It shows the total amount of income derived from tax-exempt securities, and it shows their savings under the rates proposed by the Treasury. I shall introduce a few of these items at random, but I do not think they are atypical of those with large incomes.

Let me say, before I quote from this table, in regard to arguments advanced by the Senator from Wyoming (Mr. O'MAHONEY) that for the very reason that a large part of the percentage of the national income is in the lower brackets, we will lose the tax-exemption privilege from those who are in the upper brackets. Otherwise, I think he will find the portion of the load is dumped on those with the least ability to carry the burden.

Individual No. 1 has capital and local incomes amounting to $231,000. His taxable net income from other sources is $601,000. His total income is $832,000.
The revenue loss to the Treasury from tax exemption under the rates proposed is $195,000.

Individual No. 8 in the table has State and local income of $850,000. He has taxable net income of $835,000. He has a total income of $1,655,000. His tax-exempt interest is $205,000. His taxable interest is $1,251,000. The revenue loss from the tax exemption is $521,000. Under the bill as reported from the committee the revenue loss would be $722,000.

Individual No. 21 in the list has State and local interests amounting to $1,683,000. Other federal sources are $4,321,000. His total income is $5,405,000. His tax-exempt interest is $3,380,000. His taxable interest is $4,281,000. The revenue loss from the tax exemption is $871,000. The revenue loss under the bill as reported from the committee would be $293,000.

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

Mr. LA FOLLETTE. I yield.

Mr. LEE. Does the argument that the principle is minimized because there are only a few such inequities appeal to the Senator?

Mr. LA FOLLETTE. Mr. President, I have just said that, on the contrary, the very fact that there are relatively few cases is more reason for removing the exemption.

The exemption amounts to a considerable sum of money, for the Treasury has estimated that under the rates proposed by the Finance Committee, if we were to tax the income derived from so-called tax-exempt securities, we would secure an additional amount of $225,000,000 a year. That is not "hay" in anybody's language, regardless of the deficit we face.

Mr. President, I ask unanimous consent that the two tables to which I have referred, together with the appendix following the statement of my individual views, be incorporated in the Record at the conclusion of my remarks.

Mr. PRESIDENT. Without objection, it is so ordered.

(See exhibits A, B, and C.)

Mr. LA FOLLETTE. Mr. President, we have not hesitated to interfere with the lives of individuals in this war. We have exercised the plenary power which government possesses. We have reached into every home in America, and by the long arm of the power of the Government we have taken the flower of the young manhood of America and put it into uniform. We are sending it overseas to die on foreign shores, on 43 fronts. Did we inquire, Mr. President, whether we were right in withholding from those young men? Did we ask them, however, that they were being sent abroad to fight for the fundamental principles upon which this Government was established? Those principles include the equality of principle among men.

I do not wish to have anything I say seem invidious; but today I have heard legislatures and representatives speak about whether we have the right to eliminate this special privilege or not, in the face of an opinion by the Assistant Attorney General of the United States, an opinion by the General Counsel of the Treasury Department, and opinions rendered by able Members of this body to the effect that we do have the power.

Mr. President, there may be doubt in the minds of some upon this question. There is none in my own mind. I have always believed that the Sixteenth Amendment struck down the Pollock case for good. Be that as it may, let us assume that one takes the other position. If he is fair-minded at all he must admit, it seems to me, that there is a grave question of constitutional power involved. If so, let us resolve it in favor of striking down special privilege when we are taking the lives of young men to defend this Nation. Let us permit the Supreme Court to decide this question, rather than conduct a legalistic argument here.

Mr. President, I speak with feeling. I hope that I am not exceeding the bounds of propriety in debate, but I feel deeply on this question. I feel deeply because I think the time has come, if this democracy is to survive, when we must demonstrate that we have the courage to strike down special privilege at a time when young men by the millions are about to be asked to die for the preservation of this Government. Do you think the young man coughing up his guts on the Sahara Desert feels that he is getting a square deal when one man can get $750,000 of tax exemption from a special privilege?

Mr. President, I fear this will be a long war. The question of the morale of the people will ultimately determine whether or not this Government survives. The only way we can maintain morale when the casualty notices descend upon the homes of America—like snow in a Montana blizzard is to maintain equality of sacrifice so far as it is humanly possible under the circumstances.

I will give up anything I have in this world to maintain democracy, to maintain this Government, and I think the young men of this country are ready, willing, and anxious to give up everything they have. However, in all fairness they should know that those who are here on the home front—the soldiers of democracy in positions of power—have the courage to insist that in this war there shall be equality of economic sacrifice as well as of flesh and blood.

* * *

EXHIBIT A

| Table No. 2—State and local government securities as a percent of gross state, by 1938 classes of net estate, estate tax returns filed in 1938-40 |
|---|---|---|---|---|
| Net estate (in thousands of dollars) | Tiling year | 100 under 300 | 300 under 600 | 600 under 1,000 | 1,000 and over |
| State and local government securities as percent of gross estate | | | | | |
| percent | percent | percent | percent | percent |
| 1929 | 1.8 | 3.3 | 3.7 | 4.3 | 4.8 |
| 1930 | 1.6 | 3.5 | 3.7 | 4.3 | 4.8 |
| 1931 | 1.5 | 3.5 | 3.7 | 4.3 | 4.8 |
| 1932 | 1.5 | 3.5 | 3.7 | 4.3 | 4.8 |
| 1933 | 1.5 | 3.5 | 3.7 | 4.3 | 4.8 |
| 1934 | 1.5 | 3.5 | 3.7 | 4.3 | 4.8 |
| 1935 | 1.5 | 3.5 | 3.7 | 4.3 | 4.8 |
| 1936 | 1.5 | 3.5 | 3.7 | 4.3 | 4.8 |
| 1937 | 1.5 | 3.5 | 3.7 | 4.3 | 4.8 |
| 1938 | 1.5 | 3.5 | 3.7 | 4.3 | 4.8 |

1 Before specific exemption.

2 Includes securities of Territories and Indian possessions.

3 Gross state income, except for exemptions.

Source: Computed from Statistics of Income.

EXHIBIT B

<p>| Table No. 4—Tax liability assuming interest from State and local government securities (a) tax-exempt and (b) taxable under present and proposed individual income-tax rates, for 16 selected individuals |
|---|---|---|---|---|---|---|---|</p>
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<th>Revenue from tax exemption</th>
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Footnotes at end of table.
OPINION OF ASSISTANT ATTORNEY GENERAL
SAMUEL O. CLARK, JR., ADDRESSED TO RANDOLPH E. PAUL
DEPARTMENT OF JUSTICE.
WASHINGTON, D.C.

DEAR MR. PAUL: On June 24, 1948, Hon. James W. Morris, Assistant Attorney General in charge of the Tax Division of the Department of Justice, transmitted to the Honorable Herman Oliphant, General Counsel of the Treasury Department, a comprehensive study of the constitutional aspects of the taxation of Government bondholders and employees. Copies of this study were also made available to the appropriate congressional committees.

You have requested our opinion on the constitutionality of the proposal by your Department to subject to personal income tax the interest received hereafter on outstanding and future issues of State and municipal bonds, with a view to making such tax developments subsequent to the publication of our study. We are pleased to comply with your request and submit the following views.

In our earlier study we expressed the following conclusion:

"It is believed that there can no longer be found in the decisions of the Supreme Court any rule of continuing validity. In our view, such a rule, a constitutional prohibition against applying the Federal income tax to State bondholders, officers, and employees."

You are no doubt aware that since that time the decisions of the Supreme Court on the question of constitutional tax immunity have been subject to varying and cumbersome conclusion. The trend toward a limitation of such immunity, which had developed when we published our study in 1948, has continued without interruption to the present date.

We are, of course, no longer concerned with the power of the Federal Government to tax the income of State officials and employees. The decision of the Supreme Court in Grentz v. New York ex rel. O'Boyle (300 U.S. 466), and the enactment of the Public Salary Tax Act of 1939, have removed that problem from the field of controversy. Taxation by both State and Federal Governments of the salaries of public officials is now, therefore, an incident of our fiscal system. The only remaining question is whether the income received from State and municipal obligations may be subjected to Federal taxation. The answer is as clear and certain as the solution of any legal problem can ever be prior to a final determination of the precise issue by the Supreme Court. It is our considered opinion that the Constitution does have the power to tax such income.

It is, of course, true that the Supreme Court recently concluded in the Case of the City of New York v. United States (278 U.S. 141; 152 U.S. 650; 158 U.S. 601) that a Federal tax could not validly be imposed upon income derived from municipal obligations. That decision was based upon the theory that a tax on income was a tax upon the source from which the income was derived. Thus, a tax on the income from munipal obligations would be a tax upon the persons upon whom the burden of the tax would be imposed, and, therefore, an unconstitutional burden upon the power to tax. However, this reasoning has not been completely discredited in later opinions of the Supreme Court. With the destruction of the premise of the Pollock case, its conclusion must also fall.

"The theory, which once won a qualified approval, that a tax on income is legally or constitutionally a tax on its source, is no longer tenable" (p. 451), said the Supreme Court in March 1938, in Grentz v. New York ex rel. O'Boyle (300 U.S. 466). Less than a year earlier (96 U.S. 437, 440), the Court had sustained a Federal tax upon the salaries received by employees of the Port of New York Authority, which claimed immunity, if allowed, would in the Court's opinion (p. 436) have imposed "to an inadmissible extent a restriction upon the taxing power which the Constitution has granted to the Federal Government."

The imposition of a State tax upon the salary of a Federal employee was similarly held in the O'Boyle case not to place an unconstitutional burden upon the employing sovereign, Collector v. Day (11 Wall, 119), and in the decision of the Supreme Court in the Pollock case, was thus overruled. The express denial in the O'Boyle case that a tax on income was a tax upon the source represented no new thought but was rather a reiteration of a principle which had been applied in the Court's prior decision in New York ex rel. Dwyer v. O'Boyle (300 U.S. 466), and in Hale v. State Board (302 U.S. 60). There, too, it had been recognized that "income tax is a tax upon the income, not the source with the tax immunity enjoyed by its source."

The opponents of the pending proposals urge that it would produce an unconstitutionality in that the Federal tax imposed would be prohibited. Translated into practical terms, the interference complained of is merely the increased cost of future public borrowing which might be occasioned by the tax. It is significant, however, that this increased cost involves no discriminatory burden. Rather, it represents the effect of placing incomes from private and public sources upon the same plane of equality. The absence of any such discrimination would be helpful in sustaining the constitutionality of the proposed tax.

Using the Supreme Court's reasoning in its decision in Alabama v. King & Booser on November 10, 1941 (314 U.S. 1), there was reason for the proposal to affect public employees, a constitutional immunity from taxation might possibly be accorded Congress and the bondholders. Mr. Justice Stone had, in fact, expressed a reservation (p. 486) that there was no basis for the assumption that any person or class of persons is or is not immune from taxation until the government concerned as would justify a decision that the tax upon the employee's salary was unconstitutional. This is the necessary implication of the Supreme Court's doubt true that the issuing government would bear a part of the economic burden of an income tax imposed upon the bondholder. Nevertheless, Mr. Justice Stone did not attach to the statement of Mr. Justice Stone the significance urged for it by those who are the opponents of this proposed legislation. The recent decision in Alabama v. King & Booser confirms our view. It is now clear that the substantiality of the burden upon interest will not be affected by the increased likelihood that the economic burden will in some measure be passed on to the Government.

The question in the Alabama case was whether an Alabama sales tax, which was to be imposed upon public employees, would be constitutional in its application to purchases made by a contractor engaged by the United States under a fixed-price contract. It was quite clear, of course, that the entire burden of the tax would be borne by the Government. In fact, the Government had agreed to pay the taxes, and the State Court was well aware of that. If valid, it would constitute part of the cost of the project and would be assumed and borne by the Government. To the extent that there is uncertainty as to the economic effect of the tax as in the earlier case of James v. Dravo Contracting Co. (302 U.S. 184), which involved a lump-sum contract in which the Court nevertheless sustained the State excise tax. In the course of its opinion the Court made it clear that it "So far as such a nondiscriminatory State tax upon the contractor enters into the cost of the materials to the Government, that is borne by the Government. The tax is levied within the same territory of two independent taxing sovereignties. The asserted right of the contractor to immunity does not spell immunity from paying the added costs, attributable to the taxation of those who furnish supplies to the Government and who have been granted no tax immunity." Thus, the Supreme Court finally laid to rest the theory that an economic burden in terms of increased governmental costs invalidates a tax. The earlier opinions in Panhandle Oil Co. v. Knox (277 U.S. 258), and more recently in the case of the United States v. Darby, 312 U.S. 100, are now untenable so far as they support the contrary conclusion.

This determination, which supports State taxation of Federal contract-contractor's upon the taxation of Federal contract-contractor's was to operate at least equally to sustain a Federal tax imposed upon State bondholders. Both State and Federal Governments involve the furnishing of supplies and services, the other money. The tax in each instance would increase the cost of governmental operations. The tax on the Federal contractor, to the full extent of that tax; in the case of the State, it would be passed on to the Federal Government, which is difficult of precise ascertainment. Paraphrasing the language of the Supreme Court in the Alabama case, we may therefore conclude that so far as a nondiscriminatory Federal income tax upon a holder of a State bond...
obligation enters into the cost of borrowing, that is but a normal incident of the organization of a sovereign state. It applies with equal force to all interests hereafter received upon the future issues or upon future conditions. No constitutional question as to the validity of a retroactive tax is involved. See United States v. Hudson (252 U. S. 476), and cases cited therefrom. In the proposed tax reaches the future income, and is therefore entirely prospective in operation. It possesses the same constitutional validity as the income tax imposed by the Public Safety Tax Act of 1936, upon the income received after 1936 by all Federal judges, as on the date of their appointment to office.

The assumption, which was formerly prevalent that interest received upon State securities was immune from taxation, is analogous to the assumption of many years standing that Under Evans v. Gore (253 U. S. 233), the salaries of Federal judges would be unconstitutional as a diminution of their compensation. The salaries of some Federal judges were made subject to taxation by the Revenue Act of 1932, which required that all compensation received by judges taking office after June 6, 1932, be subject to the income tax, and was included in gross income. Judges who had taken office prior to June 6, 1932, were thus given a community of property. The excuse of the bondholder, express statutory exemption was included in the act of October 3, 1913, and this provision was repeated in later acts. With respect to this line of thought, Mason, Jr., has made the argument that the immunity of judges who had taken office prior to June 6, 1932, was not a constitutional requirement, the mere effect of the Revenue Act of 1932, the fact that a provision for the adoption of the amendment were made by Governor Hughes, and Senate Rose and Senator Borah leading to the conclusion that the amendment was adopted by the State legislature with the view of the latter in mind. The statements of Governor Hughes, and of Senators Root and Borah, are as well gathered and commented upon in our study. It is significant that a large number of public officials (same agreeing and others disagreeing with the conclusion upon the amendment by Governor Hughes) urged that if the Hughes correction was correct, the constitutional grounds for the adoption of the amendment. Among them were Frederick M. Davenport, to whom Senator Rose had been addressed, and Senator Brown, of whom it was the father of the joint resolution submitting the amendment to the States. It is also significant that the amendment was rejected, the amendment in 1910 after the message of Governor Hughes, but ratified it subsequently under a resolution of Gov. John A. Dix, who vigorously challenged the broader interpretation of the amendment.

The foregoing and an abundance of similar evidence that tax could be reached in our study that the preponderating understanding of the States at the time of the ratification of the sixteenth amendment was that its adoption would result in all probability carry with it the power to tax the income from State municipal bonds. We should like to refer here, however, that the constitutionality of the proposed legislation does not depend exclusively upon the acceptance of the sixteenth amendment, namely, that the words "from whatever source derived" mean exactly what they say and if so interpreted clearly embrace income from United States securities. With full confidence, the validity of our conclusion may rest upon the basic proposition previously advanced. It has implied constitutional immunity from Federal taxation attaches to interest received from State and municipal bonds.

Very truly yours,

SAMUEL O. CLARK, Jr., Assistant Attorney General.

Mr. GEORGE, Mr. President, this question has been debated in the United States since 1868. Thirty-three years ago last July the Senate of the Congress submitted the sixteenth amendment to the several States. Its ratification, of course, followed. During all the intervening years the question of the wisdom and power of taxing State and municipal bonds has been before the American people. It is a question on which almost every American has his opinion. He has no doubt had no lack of opinion in the past. His opinion is given. The debate in this body during the greater part of yesterday and all of today has been of an exceptionally high order.

Two questions were presented to the Finance Committee this year, they were also presented to the Ways and Means Committee of the other House.

First, whether the income derived from State and municipal bonds should be taxed; second, if it were not deemed wise or just to tax the income derived from such bonds outlying income, should the income from future issues of State and municipal bonds be taxed?

There is a question of power, that is quite true. It has often been debated. I have in the past entertained the view that the power of Congress to tax income derived from State and municipal bonds was involved in great doubt. I now have no serious doubt that the Congress has the power to hold that the Congress has the power to tax income derived from State and municipal bonds. That is a debatable question. It is a question on which reasonable minds may differ. I grant that. I cannot believe that we have not power to tax it. I cannot believe that it is wrong to tax the income from State and municipal bonds. That is, to my mind, seems to be the big question. I shall go as far as anyone will go in trying to maintain the business machine upon which the country must depend and by that I mean the whole business machine, from the humblest individual to the largest organization which we permit to exist. I shall go as far as anyone will go in maintaining the business machine upon which we depend, upon which we shall depend when the war ends, and upon which the men who are fighting must depend in order to find a Job when they return.

Mr. President, I think that is a short-sighted policy which would break down the business machine and which would let the returning soldiers find no work and no employment, but find a period of stagnation through which they would have to pass, after this war shall have ended.

So, Mr. President, paraphrasing the expression "Keep Em Flying," I am willing to keep Em Flying. It is essential to the life of America to keep business going—that is, by giving to business a fair treatment, although not relieving it of its proper and fair burdens, of course.
The President. Eighty-six Senators have answered to their names. A quorum is present.

The question is on agreeing to the amendment of the Senate from Ohio (Mr. Burton) stated.

Mr. BURTON. Mr. President, may I have the statement of the amendment by the Senator from Ohio [Mr. Burton] stated?

The PRESIDENT. The clerk will state the amendment.

The Chief Clerk. It is proposed to strike out on page 34, line 1, the words "before January 1, 1943," and beginning on line 33, page 34, to strike out all down to and including line 18 on page 38, as follows:

For the purposes of clause (B) of paragraph (1) of this subsection:

(A) In the case of an obligation issued before January 1, 1943, the maturity of which on the date of enactment of the Revenue Act of 1943 (hereinafter called "enactment date") or the date of issue, whichever is later, is later than December 31, 1942, is, after enactment date, charged so as to increase the principal amount and the maturity, then such obligation shall (as to interest accruing for any period after the date of enactment of the Revenue Act of 1943, whichever is later) be considered as issued after such later date.

(B) In the case of an obligation issued after the enactment date, if the date of issue (hereinafter called "enactment date") before January 1, 1943, such obligation shall (as to interest accruing for any period after the date of enactment of the Revenue Act of 1943, whichever is later) be considered as issued after such later date.

For the purposes of clause (B) of paragraph (1) of this subsection, if an obligation is issued after December 31, 1942 (hereinafter called "refunding obligation") and if:

(A) The issue of which it is a part (hereinafter called "underlying obligation") for the purpose of refunding one or more obligations (hereinafter called "refunded obligations") and if:

(B) All refunded obligations have the same exemption expiration date, as defined in subparagraph (J); and

(C) No obligations, other than those of the new issue, have been issued for the purpose of refunding any of the refunded obligations.

(D) The aggregate principal amount of the new issue is not in excess of the aggregate principal amount of the refunded obligations; and

(E) Interest on each of the refunded obligations, for the period at the end of which it ceases to run by reason of such call for redemption, is considered as interest on an obligation issued before January 1, 1943; and

(F) Interest on each of the refunded obligations, for the period at the end of which it ceases to run by reason of such call for redemption, is considered as interest on an obligation issued before January 1, 1943; and

(G) The refunding obligation, in its term, states the exemption expiration date of, and identifies, the refunded obligations; and

(H) The interest rate on the refunding obligations for any period ending on or before January 1, 1943, is, for the period ending before or on the exemption expiration date of the refunded obligations, and shall be considered as issued after December 31, 1942, as to the remainder of such interest.

For the purposes of this paragraph:

(1) Several obligations shall be considered, as one issue, only if each is identical with all the others in maturity, interest rate, terms and conditions, and serials, but the fact that the United States is not a party to a suit at law or in equity, nor is the matter pending in any court, nor is any action or proceeding has commenced, and so forth, are disregarded.

(2) "Exemption expiration date" means:

(a) With respect to a refunded obligation issued before January 1, 1943, the date as of which interest thereon would, if the obligation had not been called and been taken or redeemed, have been considered to be interest on an obligation issued before January 1, 1943.

(b) With respect to a refunded obligation issued after December 31, 1942, the date as of which interest thereon would, if the obligation had not been called and been taken or redeemed, have been considered to be interest on an obligation issued before January 1, 1943.

Mr. BURTON. Mr. President, merely that I may be sure that I understand the proposition of the amendment, and that the Senate does, I understand that the law now provides that income from all State and municipal securities shall be exempt from taxation. The committee proposes an amendment to that effect, which securities are exempt from taxation, all bonds that were issued or will be issued before January 1, 1943. My amendment is to strike out that date, and to strike out the limitation, and therefore to leave the situation as it is at present. If my amendment were adopted, the situation will remain as it is now, and municipal and State bonds will remain exempt.

The Vice President. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.
Glass), who would vote as I intend to vote. I vote "nay." I am advised that if present and voting the Senator from New Hampshire (Mr. Bums) would vote "yea."
The roll call was concluded.
Mr. HILL. The Senator from Virginia (Mr. Glass) and the Senator from Delaware (Mr. Hoke) are absent from the Senate because of illness.

The Senator from Florida (Mr. McNary), the Senator from Maryland (Mr. Thomas), and the Senator from Montana (Mr. Watson) are absent from official business.

The Senator from Georgia (Mr. Russell) and the Senator from New Jersey (Mr. Smart) are necessarily absent.

I announce the following pairs on the pending question:
The Senator from Maryland (Mr. Thomas), who would vote "nay," with the Senator from North Dakota (Mr. Nye), who would vote "yea."
The Senator from Montana (Mr. Watson), who would vote "nay," with the Senator from New Hampshire (Mr. Bums), who would vote "yea."

Mr. McNARY. The Senator from New Hampshire (Mr. Bums), the Senator from Montana (Mr. Watson), and the Senator from New Hampshire (Mr. Toso) are necessarily absent.

The result was announced—yeas 52, nays 34, as follows:

YEAS—52
Austin,...
Bailey,...
Handbank,...
Barbour,...
Barlow,...
Boggs,...
Brewer,...
Brooks,...
Bunker,...
Burton,...
Butler,...
Caraway,...
Connally,...
Davis,...
Deyoe,...
Elender,...

NAYS—34
Alten,...
Bankey,...
Bryan,...
Byrd,...
Cary,...
Chandler,...
Clark, Idaho,...
Clark, Mo,...
Danshier,...
Dwyer,...
George,...

NOT VOTING—10
Andrews,...
Brundage,...
Dunne,...
Hughes,...
Huley,...

So Mr. Burton's amendment to the amendment of the committee was agreed to.

The VICE PRESIDENT. The question recurs on the committee amendment on page 51, beginning in line 1, as amended.

The amendment, as amended, was agreed to.

Mr. GEORGE. Mr. President, I assume that the action just taken by the Senate will make it unnecessary to act upon two amendments which were passed over. The first is on page 528, "Section 508, Taxation of obligations of United States and its instrumentalities." That is a provision by which the United States would give consent to the taxation, under an income tax, of interest upon obligations, and dividends, earnings or other income from shares, certificates, stock, or stocks of other instrumentalities of United States-owned corporations, and so forth. It would also apply to the second amendment passed over, beginning in line 13, on page 531, and ending in line 13, on page 532, beginning in line 1, "Section 174, Temporary income tax on individuals."

Mr. McNARY. Mr. President, I call attention of the "aye" Senator in charge of the bill and Democratic leader to an understanding we had a few days ago.

Mr. GEORGE. Mr. President, I remember it; and if it is agreeable to the majority leader, I suggest that the Senate now take a recess until tomorrow.

STIMULATION OF OIL PRODUCTION

Mr. O'MAHONEY. Mr. President, I ask unanimous consent to have printed in the body of the Record a telegram which I received this morning from the Honorable Wayne Johnson, of the War Production Board, who was in a hearing of the Committee on Public Lands and Surveys, which was considering ways and means of stimulating the production of oil in the United States. Mr. Johnson has suggested a possible amendment to the proposed legislation.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

NEW YORK, N. Y., October 7, 1942.
Hon. Joseph C. O'Mahoney.
Senate Committee on Public Lands.

After listening to the testimony taken before your subcommittee yesterday and after receiving a report on the testimony today, it seemed to me that the suggestions thus far submitted to bring about the necessary exploitation of existing prospects and undeveloped areas of oil and gas were too general in their application. In order to avoid a similar threatening shortage in 1943 the Congress should stabilize the oil and gas industry in New ways and new means of stimulating the production of oil in the United States. Mr. Johnson has suggested a possible amendment to the proposed legislation.

Mr. President, I move that the Senate proceed to the consideration of the amendment of the committee.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE SESSION

Mr. BARKLEY. 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.

EXECUTIVE MESSAGE REFERRED

The VICE PRESIDENT laid before the Senate a message from the President of the United States submitting several nominations in the Army and the Army Specialist Corps, which was referred to the Committee on Military Affairs. (For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. McKELLAR, from the Committee on Post Offices and Post Roads:

Underudge reports.

By Mr. REYNOLDS, from the Committee on Military Affairs:

Sundry citizens for appointment in the Army Specialist Corps, established by an Executive order.

Sundry officers for appointment, by transfer, and/or promotion in the Regular Army.

By Mr. BONE, from the Committee on Patents:

October 8, 1942.
Vernon L. Richard, to be examiner in chief, Board of Appeals, United States Patent Office; and
Ernest F. Ells, to be examiner in chief, Board of Appeals, United States Patent Office.

The VICE PRESIDENT. If there be no further reports of committees, the clerk will state the nominations on the calendar.

DIPLOMATIC AND FOREIGN SERVICE

The legislative clerk read the nomination of George Wadsworth, of New York, to act as diplomatic agent and consul general of the United States of America near the Government of the Republic of Lebanon, at Beirut, and near the Government of the Republic of Syria, at Damascus.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

POSTMISTERS

The legislative clerk proceeded to read sunny nominations of postmasters.

Mr. MCKELLAR. I ask that the nominations of postmasters be confirmed en bloc.

The VICE PRESIDENT. Without objection, the postmaster nominations are confirmed en bloc.

THE NAVY

The legislative clerk read the nomination of John H. Towers, to be vice admiral for temporary service, to rank from October 6, 1942.

Mr. WALSH. I ask that the nomination be confirmed.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of John S. McCain, to be Chief of the Bureau of Aeronautics, with the rank of Rear Admiral, for a term of 4 years, effective upon the relinquishment of that office by Rear Admiral John H. Towers.

Mr. WALSH. I ask that the nomination be confirmed.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

THE MARINE CORPS

The legislative clerk proceeded to read sunny nominations in the Marine Corps.

Mr. WALSH. I ask that the nominations in the Marine Corps be confirmed en bloc.

The VICE PRESIDENT. Without objection, the Marine Corps nominations are confirmed en bloc.

That completes the calendar.

Mr. BARKLEY. I ask that the President be immediately notified of all nominations this day confirmed.

The VICE PRESIDENT. Without objection, the President will be notified forthwith.

RECESS

Mr. BARKLEY. As in legislative session, I move that the Senate take a recess until 11 o'clock tomorrow.

The motion was agreed to; and (at 4 o'clock and 56 minutes p.m.) the Senate took a recess until tomorrow, Friday, October 9, 1942, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 8 (legislative day of October 8), 1942:

APPOINTMENTS IN THE ARMY SPECIALIST CORPS

Leland Grisier Gardner, executive officer, Legislative and Liaison Division, War Department, Special Staff, $5,600.

Hugh McKnight Jones, principal personnel procurement officer, field service, Seventh Service Command, Army Specialist Corps, $5,600.

Malvin James Snyder, principal administrative officer, Engineer Corps, Services of Supply, New York, N. Y., $5,600.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 8 (legislative day of October 8), 1942:

DIPLOMATIC AND FOREIGN SERVICE

George Wadsworth, to act as diplomatic agent and consul general of the United States of America near the Government of the Republic of Lebanon, at Beirut, and near the Government of the Republic of Syria, at Damascus.

IN THE NAVY

PROMOTION IN THE TEMPORARY SERVICE

John H. Towers to be vice admiral for temporary service.

IN THE MARINE CORPS

PROMOTIONS IN THE TEMPORARY SERVICE, IN THE MARINE CORPS

To be major generals

Emile F. Mosca
Harry Schmidt
Ralph J. Mitchell

To be brigadier generals

Eari C. Long
Pedro A. del Valle
Francis P. Mulcahy
Louis E. Woods
Field Harris

POSTMISTERS

CALIFORNIA

Gilbert O. Vann, Arbutus.
Jacob Golden Law, Feather Falls.
Paul W. McCrorey, McCloud.
John Carlos Rose, Milpitas.
Robert L. Turner, Mojave.
Julia M. Ruschin, Newark.
Lindsey L. Burke, Norwalk.
Charles A. Turner, Oceanide.
Joy June Murphy, Project City.
George H. Treat, San Andreas.
Louis J. McNeil, Tulamne.

MONTANA

Clarence G. Masterson, Willmore.

OREGON

Oran D. Clement, Livingston.

PROMOTIONS IN THE MARINE CORPS

John H. Towers to be Vice Admiral of the Navy for a term of 4 years.
October 8, 1942.

Dear Felix:

It was very good of you to send me a copy of your present address, as a means of occupying my idle hours. Seriously, however, I am looking forward to reading it very attentively, and I am sure it will will repay the time spent upon it.

Elmer is away, but when she returns to Washington, she will want to read it and I shall save it for her.

With warm regards,

Sincerely,

(Signed) Henry

Justice Felix Frankfurter,
Supreme Court of the United States,
Washington, D. C.

GMF/dbs

File in Diary
Dear Henry:

Since time is likely to be hanging heavy on your hands these days I thought I ought to supply you with a bit of reading matter. And your Eleanor may find a thing or two in this speech of interest to her.

With warm regards,

Ever yours,

[Signature]

Hon. Henry Morgenthau, Jr.
Address by Associate Justice Felix Frankfurter at the
Inauguration of Dr. Harry N. Wright, sixth
President of the College of the
City of New York, on
Wednesday,
September 30, 1942.
Address by Associate Justice Felix Frankfurter at the
Inauguration of Dr. Harry N. Wright, sixth
President of the College of the
City of New York, on
Wednesday,
September 30, 1942.

Mr. Chairman, Mr. President, Ladies and Gentlemen:

In 1848 a movement for freedom was astir in Europe. It was short-lived. Only America profited thereby for it brought us the pilgrims of '48 - the Brandeises, the Jacobis, the Carl Schurzes, and the rest. But just at the time that reaction smothered the democratic ferment in Europe, it achieved here an historic triumph. The exiled democratic revolutionaries from Europe set foot on America as the doors of this College were opening. This College is not only an expression of the democratic faith. It is the creation of the democratic will. The old red building on Twenty-third Street, not beautiful but dear to men of my generation, with its memories of General Webb and Professors Compton, Doremus, Herberman, Johnston, McGuckin, Mott, and Werner, to mention only a few, stood forth as the visible symbol of the democratic reliance on a comprehensive process of popular education from the lowest grades to the highest. All ideas originate in some brain, and Townsend Harris is rightly cherished as a pioneer and chief promoter of the idea of a college like this. But the real founder of our College is the people of the City of New York. It cannot be too often recalled that this College was ordered to be established by direct vote of the people after full discussion of the need for the higher education of youth in a great democratic community like New York. Higher education was thus made available to those capable of it not as a largesse, not as charity for the poor, but as part of the duties of a democratic government. It was
no more free in an invidious or even true sense than government is free. The cost of higher education for a democratic society was rightly deemed part of the cost of government.

But it would be historically false to say that the American ideal which gave birth to this College wholly possessed American opinion a hundred years ago. The establishment of the College was vigorously resisted and popular approval of the measure viewed with forebodings. Let me quote from a contemporary document:

"A calm observer of the signs of the times must distinctively perceive in many of the passing events of the day unerring indications of the spread of that Agrarianism which preceded the decline and fall of the Roman republic.

"The determination on the part of the pauper class among us to levy upon the active, industrious, (and, if you please, affluent), portion of the community, the expenses of furnishing to the sons of the former a College education (through the Free Academy Project) must be viewed as one of the most shameless acts which disgrace these corrupt and degenerate times. ** It is a distinct and palpable assault upon the rights of property, with not so much of plausibility even as demagogues have usually been able to clothe their designs in."

Happily Dr. Mario Cosenza rescued this letter from the oblivion of a newspaper file nearly a hundred years old. For it was not the jeremiad of a lonely crank, and one is compelled to note that such an undemocratic outlook is not wholly without following in our own day. To be sure, the effort to undo what the people of the City of New York did in 1847 in founding this College, and which has been so munificently sustained ever since, has long ceased to be a practical effort. However, unless I am misinformed, our College and the other New York City colleges are the only institutions completely maintained by an American municipality. If this be so I am at once proud and sorry. But the progress of collegiate education in our country and more particularly the increasing recognition of public responsibility for such education are encouraging. Whereas in
1900 a little more than four per cent of the college population was enrolled in college, at the time of the last census about fifteen per cent was so enrolled. And while in 1890, of the relatively small male college population twice the number was in privately controlled colleges as compared with those in publicly controlled colleges, that ratio has steadily narrowed, and the 1940 census reported the male population in publicly controlled colleges amounting to nearly half a million students as easily outstripping the attendance of privately controlled colleges.

Opportunities for education cannot be allowed to depend on a cash nexus. Specialized professional training for the complicated needs of modern society on top of the unifying bond of a common social outlook is indispensable for the more gifted members of a democratic society. But social differentiation in the formative years of education inevitably creates barriers against instinctive democratic sensibilities however subtly such divisive influences may assert themselves. To deny young people opportunity to equip themselves fully for their place in society merely because their parents lack financial resources, or for any other accident of irrelevant circumstance, is to deny democracy itself. For it means nothing less than the denial to a democracy of the adequate use of its talents. What kind of Americanism is it that excludes from the fullest opportunities for one's faculties or from office men otherwise qualified solely because they are Catholics or Jews or Negroes. How loyal to its professed ideals is a great university which bars one of its best scholars from a deanship because he is a Jew? How true a liberal is an adviser who encourages such discrimination? On this central issue of American democracy an observation of Senator Borah's deserves to become part of the American tradition. The story goes that
a former President hesitated to name a noble American for a position for which he was uniquely qualified and gave as one of his reasons that "There is a good deal of anti-Semitism abroad in the land." "Yes," replied Senator Borah "it is true that there is a good deal of anti-Semitism abroad in the land. But the way to deal with anti-Semitism is not to yield to it." The way to deal with all forces of darkness, with all enemies of true Americanism, is not to yield to them.

"This great city of ours is an ever growing gathering of the sons of all nations, of all races, of all religions and irreligions, of all colors and creeds; and here in this City College of New York, they are all treated with absolute equality and absolute sympathy and tenderness. Not one suggestion is made against any boy's religion or lack of religion, or color, or race, or creed. That constitutes a very great glory of this establishment."

So spoke Joseph H. Choate when these magnificent buildings were dedicated long before the right to enjoy that glory was challenged by the greatest brute force in history. When the people founded this College they little dreamed that in order to vindicate the freedom of the human spirit of which this College is an expression, a hundred years later American soldiers would be scattered over six continents, our Navy fighting on seven seas, and our Air Forces engaging the enemy on nine separate fronts around the world every flying day.

We did not go to war. War came to us. No democratic people could be led into war to promote some social ideal. To promote even the noblest ideals by aggression would be no less aggression than to enlarge boundaries by aggression. And so it is wholly accurate to say that our essential aim in this war is to defeat the enemy. To suggest that this is merely to fight against something and that men ultimately will only fight for something is to play with words. When we say we fight to defeat the enemy we of course mean we fight for the kind of civilization we cherish.
To be sure, the glare of war has revealed fissures in our spiritual structure, deeper ones than we had heretofore realized. Some of these must be promptly repaired for the more effective conduct of the war. The repair of others cannot long be delayed after peace comes. But the kind of civilization we cherish is the society which was launched by the Declaration of Independence, which was to move within the spacious framework of the Constitution, which was rededicated by Lincoln at Gettysburg and in his Second Inaugural. It is a society in which the dignity of every individual is central, regardless of the accidents of antecedents; a society in which there are no unimportant people; in which institutions are progressively so shaped as to bring to maximum fruition the potentialities of men. The innermost meaning of it all is Lincoln's homely expression of faith that the Lord must love the common people because he made so many of them. One does not have to think too well of what our civilization has thus far achieved not to be ready to destroy its good together with its evil in the arrogant hope of writing in the future nothing but good on a clean slate. The answer to the defects of our society is not denial of the democratic faith. The answer is more loyal practice of that faith.

To the extent that it is true that men think and feel differently who live differently, it is a significant fact that economic inequalities are strikingly less in Britain than they are in this country. That in all of Britain last year there were only 80 persons to whom the tax-gatherers left an income of £5000 is a fact of revolutionary implications - far-reaching changes peacefully accomplished, but nonetheless revolutionary in their social consequences. They are consequences that make of our traditional, old school-tie, Tory-ridden, class-bound, antidemocratic picture of England an obsolete caricature, but too often a
mischief-making caricature still. It is the untrue picture of England, not unexploited by our enemies, that for too long has confused too many minds in this country as to the nature of this conflict. This obfuscation gave us first the era of the so-called "phony war" and made us unaware that the tiger was only waiting for the right moment to pounce. Later, when the "phony war" became the most brutal of all wars, we were gullied by poisonous talk that it was a war of clashing imperialisms. Now we see it for what it is - not at all as a war to save either the old British Empire or the new British Commonwealth of Nations. It is a war to save civilization itself from submergence. "If the President had listened to me", said Father Gannon the other day, referring to his former isolationist opinions, "China, Russia, and Great Britain would now be prostrate and we should be facing our zero hour alone and unprepared." Those few who are still so blind as not to see this no longer count, at least for the present. But still fewer are those who strengthen the moral resources of the nation by a candid recantation of their foreshortened views on our relation to this struggle. Nothing would so make for that spiritual unity which the peril of the hour demands than to have others follow the superb, forthright example of the distinguished President of Fordham University.

I dare to avow simple ancient truths because we have forgotten to live by them. We are desperately in need not of new truths but of passionate devotion to old truths. For a time we heard a great deal about a new plateau of commercial values and almost imperceptibly we assumed that we were also being elevated to a new plateau of moral values. The law of political and economic institutions is the law of change. But there are eternal verities - those conditions without which freedom is
outraged and faith replaced by cynicism. Ultimately there can be no freedom for self unless it is vouchsafed to others; there can be no security where there is fear; and a democratic society presupposes confidence and candor in the relations of men with one another, and eager collaboration for the larger ends of life instead of the pursuit of petty, selfish or vain-glorious aims.

These conditions for a good life do not change but they now operate in a much more complicated setting. Thus we talk glibly about the annihilation of distance. Speed of communication does bring many advantages. But we must not overlook the new and dangerous conditions created by these triumphs of science. The mobility of words at the present time too often brings in its train immobility of reflection. We have only begun to realize the opportunities for arousing passions, confusing judgment, and regimenting opinion that are open to the new forces introduced by chain newspapers, syndicated articles, headline reading, the movies, the radio, and private polls. But we have a better appreciation now how slender a reed is reason - how recent its emergence in men, how deep the countervailing instincts and passions, how treacherous the whole rational process. The whole temper of our society, moreover, is hurried; its atmosphere and appurtenances hostile to reflection. Thus reason is asked to flourish when the conditions for it are least favorable.

Without respect for freedom of inquiry and freedom of opinion there is no democracy. But no less indispensable is the assurance of the means by which opinion remains really free. Modern instruments of dissemination may unwittingly make the public the victims either of gullibility or of cynicism or of both. But only critically disciplined readers and listeners can generate
that healthy public opinion which a democratic government expresses. Indispensable is an atmosphere favorable to free and informed thought out of which issue informed opinion and free activity.

Now that the fiery furnace of war is gradually cleansing us of our pathetic illusions, it is becoming clearer every day that the qualities on which our very existence depends, the qualities without which victory is impossible, will be equally needed in the processes of peace. There may be still those, fed too much on stories of wizardry and miracle makers, who hope for somebody to invent a quick and easy way to win the war. But victory depends on courage, endurance, honor, self-discipline, unselfish devotion. And without these, though we cry "Peace, peace", there will be no peace. How to relate intellect to character has baffled inquiry since man first reflected on his destiny. But certainly a fusion of character and intellect will not be promoted if character be deemed a bit of Victorian hypocrisy.

And so it is the special function of this College and of all the colleges throughout the land to send forth its young men and women each year equipped with the accumulated wisdom of mankind - its tested cultural and ethical heritage. Precisely because each generation has its own needs and the future its unknown problems to which as yet there are no answers, it is indispensable to build on what all experience has vindicated and not start as though chaos were our heritage. Let youth gather the harvest of its ancestors.

This is not the occasion to speak of the special adaptation of colleges to war needs and the light that war and its antecedents have shed on the wisdom of pre-war curricula. Suffice it to say that so profound an upheaval is bound to stir inquiry into the extent to which traditional courses give not understanding but fleeting and partial knowledge, and into the inadequacy of the cultural underpinning afforded to those who proceed to the
professions. We shall, I hope, make more certain that those who become doctors in the future will better appreciate not only that diseases pertain to human beings and do not exist as abstractions, but will be made fully alive to the social aspects of medicine. And their general cultural training should make future lawyers more aware that law is not a system of abstract logic but the web of arrangements, rooted in history but also in hopes, for promoting to a maximum the full use of a nation's resources and talents. War devours comforts, dislocates habits, and readjusts many peace-time requirements. Colleges cannot escape these exactions. Indeed, they should be pacemakers in imaginative and self-imposed contributions to the common effort. But one thing our colleges and universities must not do - they must not lower their academic standards. To do so is no contribution to the war and a great disservice to the peace to come. This means also that we cannot afford to economize in the essentials of education. That too many of our institutions in their physical extravagances reflected the materialism of the Babylonian period preceding the depression is no reason for crippling ourselves to meet bravely and wisely the awful wreckage which this war will leave behind. The problems of the post-war period cannot be met by impairing our intellectual and moral capital - men adequately trained to meet those problems. In insisting upon trained leaders, I mean, of course, the very opposite of the so-called Führer Prinzip. The revival in our day by any man or people of the divine right to rule, particularly to rule the world, is a piece of humorless blasphemy. The difference between leaders as true servants of a community and self-designated overseers of peons is the difference between a free society and a concentration camp.

The duty and opportunity to nurture and develop the creative minds we shall so deeply need lies mainly with institutions like this. Colleges and
universities are the special guardians of the free pursuit of truth because they are the professional pursuers of truth. It was a sure instinct that made Hitler at the very outset burn books and seize the universities.

We are told by a thinker entitled to tell us that today the whole range of learned thought is transforming every activity of mankind. How to shape that transformation and how to utilize the fundamental repercussions of science upon society is primarily the job of the institutions of learning. And this is not merely or even chiefly through the collaborative efforts of specialized scientists with consciousness of the limits of their specialties. Colleges must do their share chiefly through their products, the millions who year after year go out from halls like this, sensitized by their training to the understanding of the social forces confronting them. They must be aware, therefore, that the future grows out of the past but is not contained within it, that the future depends not on the cautious hoarding of the potentialities of man but on their stimulation and bold use. God did not unfold the eternal vision to Adam Smith in Manchester nor yet to Karl Marx in the British Museum.

To have assumed that we could achieve security and decency by dissociating ourselves except for purposes of money-making, from the family of peoples who make the world, does credit neither to our heads nor hearts. Such self-destructive isolationism has partly been the result of faulty education and has partly influenced shortsightedness in education. Too much have we gone on the assumption that education must concern itself predominantly with interests local to our people. Indeed our education was conceived in terms not only of our own peculiar interests but almost in opposition to the conceptions of life and interests of other and especially competitor nations. It is no comfort that other countries were no wiser than we. Since neither nations
nor men live unto themselves alone, education appropriate to a peaceful and
gracious civilization must transcend national interests. It is necessary to
know what goes on inside our own country and also to understand what goes on
in other countries. An adequate education must promote the aspiration of
civilized peoples everywhere, must view the relations of more advanced and less
advanced peoples in a sympathetic manner and seek to bring them all into har-
mony. Such a conception of education thinks of men everywhere as entitled
to the goods of this world, entitled to their own culture, but not to the
exclusive or selfish use either of goods or of ideas.

But subscribing to progressive ideals is not a substitute for the need
of hard thinking in order to know how to realize these ideals against ob-
stinate and hard realities. It requires unyielding will to translate thought
into action. It is so much easier to draw a blueprint of Utopia than a
relatively smooth working measure of economic control dealing with even one of
the many problems begot by the concentration of economic power. However,
words and the best intentions are not enough for the strategy of war. They
are not enough for the strategy of peace. To give life to generalities re-
quires imagination, understanding, planning, unremitting determination, and
bold execution.

If I may take some liberties with what John Maynard Keynes has written,
the world has the resources and the techniques if we would only create the
organizations to use them, capable of reducing to a position of secondary im-
portance the economic problem which now absorbs our moral and material en-
ergies. Economics is not the whole of life. Very far from it. But on the
fair and sensible control of economic forces depends the opportunity to pur-
sue a civilized life. If only we can bring sufficient good-will and resolute
purpose to bear, the day need not be far off when the economic problem will
take a back seat where it belongs and the arena of the heart and head will be occupied by our real problems - the problems of life and of human relations, of creation and behavior and religion.

Let us not mouth "that they shall not have died in vain." It is an indecency to respond to the dedication of their lives with empty words. The only possible way to ensure they shall not have died in vain is for us to see to it that they did not do so. And by "we" I mean each and every one of us. And what we can do about it is of the same order as to see to it that we win this war. By "we" again I mean every one of us. In the words of another, "To achieve Victory with a capital V is beyond us ordinary listeners. We must break it up into a thousand little victories around our own doorstep." It is not rhetoric but homespun truth to say that within the limits of his powers every one of us must be his own second front.

The ideal that holds us together is our sincere respect for the common man whatever his race or religion. If anything is distinctively American it is that hospitality to the human spirit whatever its source. In this faith America was founded; this is the faith that her poets have sung and her seers have preached; in this faith generations of unknown millions have labored; for this faith armies of the young have died and for this many more will give themselves.

This, then, is yours: to build exultingly
High, and yet more high,
The knowledgeable towers above base wars
And sinful surges reaching up to lay
Dishonouring hands upon your work, and drag
From their uprightness your desires to lay
Among low places with a common gait.
That so Men's mind, not conquer'd by his clay,
May sit above his fate;
Inhabiting the purpose of the stars,
And trade with his Eternity.
TO Secretary Morgenthau
FROM Mr. White

This is a comparative statement of the earnings and expenses of the Stabilization Fund for the months of August and September, 1942.

<table>
<thead>
<tr>
<th>Earnings</th>
<th>August 1942</th>
<th>September 1942</th>
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<tbody>
<tr>
<td>Interest earned on investments</td>
<td>$20,110.20</td>
<td>$19,461.47</td>
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<tr>
<td>Interest earned on Yuan</td>
<td>24,391.84</td>
<td>25,601.61</td>
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<tr>
<td>Total</td>
<td>$44,502.04</td>
<td>$43,063.08</td>
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<tr>
<td>Profits on handling charges on gold</td>
<td>77,552.47</td>
<td>76,016.82</td>
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<tr>
<td>Grand Total</td>
<td>$122,054.51</td>
<td>$119,079.90</td>
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<table>
<thead>
<tr>
<th>Expenses</th>
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<tbody>
<tr>
<td>Salaries</td>
<td>$19,843.34</td>
<td>$22,188.53</td>
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<tr>
<td>Travel</td>
<td>172.69</td>
<td>993.51</td>
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<tr>
<td>Subsistence</td>
<td>903.22</td>
<td>1,106.30</td>
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<tr>
<td>Telephone and Telegraph</td>
<td>2,381.33</td>
<td>1,359.21</td>
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<tr>
<td>Stationery</td>
<td>29.70</td>
<td>15.29</td>
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<tr>
<td>All others</td>
<td>676.87</td>
<td>359.07</td>
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<tr>
<td>Total</td>
<td>$24,012.15</td>
<td>$26,021.91</td>
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</table>

Net earnings                          $98,042.36  $93,057.99
By dear Mr. President:

In accordance with your memorandum of October 2nd, there is attached a report providing the information concerning the availability of supplies for the Soviet Government.

The report lists the priority cargoes scheduled by the Lend-Lease Administration for October shipment, covering items purchased by the Treasury Procurement Division, totaling 36,326 tons, which will be set to the extent of 35,683 tons. There is on hand and will be produced during October 309,800 tons of materials other than priority cargo.

Yours sincerely,

(Signed) H. Morgenthau, Jr.

The President

The White House

CEN:so:rm
10-7-42
<table>
<thead>
<tr>
<th>COMMODITY</th>
<th>PRIORITY CARGOES</th>
<th>A VAILABLE</th>
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<tr>
<td>SHIPMENT</td>
<td>SPECIFIED FOR OCT.</td>
<td>STORAGE IN TRANSIT TO STORAGE PRODUCTION</td>
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<tr>
<td>STEEL BARS</td>
<td>7,000</td>
<td>14,920</td>
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<tr>
<td>SHEETS, STRIP, PLATES, SHAPES AND MISCELLANEOUS</td>
<td>24,435</td>
<td>75,668</td>
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<tr>
<td>SHEEL STEEL</td>
<td>7,000</td>
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<tr>
<td>TOOL AND DIE STEEL</td>
<td>1,110</td>
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<tr>
<td>RAILROAD RAIL AND ACCESSORIES</td>
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<tr>
<td>RAILROAD WHEEL SETS</td>
<td>2,800</td>
<td>17,906</td>
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<tr>
<td>RANKED WIRE</td>
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<tr>
<td>CABLE (OTHER THAN COPPER)</td>
<td>222</td>
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<tr>
<td>WIRE PRODUCTS</td>
<td>6,760</td>
<td>22,022</td>
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<tr>
<td>PIPES AND TUBING</td>
<td>60,300</td>
<td>60,376</td>
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<td>TIN PLATES</td>
<td>3,000</td>
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<td>COPPER AND COPPER PRODUCTS</td>
<td>3,060</td>
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<tr>
<td>ZINC</td>
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<td>2,500</td>
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<tr>
<td>ALUMINUM INGOTS AND SHEETS</td>
<td>2,560</td>
<td>2,560</td>
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<tr>
<td>NICKEL AND NICKEL PRODUCTS</td>
<td>300</td>
<td>300</td>
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<td>PEROCHROMITE</td>
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<td>FERROSILICON</td>
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<tr>
<td>NODIUMINUM</td>
<td>97</td>
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<tr>
<td>MAGNESIUM</td>
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<td>-</td>
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<tr>
<td>COPOLYMER</td>
<td>10</td>
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<tr>
<td>CHEMICALS</td>
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<tr>
<td>MERCURY</td>
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<tr>
<td>INDUSTRIAL AND CONSTRUCTION MACHINERY, ACCESSORIES AND PARTS</td>
<td>10,527</td>
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<tr>
<td>AUTOMOTIVE EQUIPMENT AND PARTS</td>
<td>303</td>
<td>64</td>
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Regraded Unclassified
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<tr>
<th>COMMODITY</th>
<th>PRIORITY GOODS SPECIFIED FOR OCT. SHIPMENT</th>
<th>AVAILABLE IN TRANSIT STORAGE</th>
<th>TO STORAGE</th>
<th>PRODUCTION</th>
<th>BALANCE</th>
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<tbody>
<tr>
<td>TIRES AND TIRES</td>
<td>6,060</td>
<td>2,478</td>
<td>3,760</td>
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<td>OIL FIELD MACHINERY</td>
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<td>FIRE FIGHTING EQUIPMENT</td>
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<tr>
<td>GRAPHITE - METAL ELECTRODES</td>
<td>168</td>
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<tr>
<td>LEATHER AND LEATHER PRODUCTS</td>
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<tr>
<td>FURNITURE AND OFFICE EQUIPMENT</td>
<td>38</td>
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<tr>
<td>CLOTHING AND TEXTILES</td>
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<td>RUBBER PRODUCTS</td>
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<td>PLASTICS</td>
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<td>RADIO EQUIPMENT</td>
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<td>PRECISION INSTRUMENTS</td>
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<td>PHOTOGRAPHIC EQUIPMENT</td>
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<td>HAND AND MACHINE TOOLS</td>
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<td>BALL AND ROLLER BEARINGS</td>
<td>110</td>
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<td>278</td>
<td>188</td>
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<td>PAPER AND PAPER PRODUCTS</td>
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<tr>
<td>MISCELLANEOUS SUPPLIES AND EQUIPMENT</td>
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<tr>
<td>(GAS MASKS, DETONATION COMPOUNDS, ETC.)</td>
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<tr>
<td>AIRCRAFT INSTRUMENTS</td>
<td>13</td>
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<tr>
<td>MEDICAL SUPPLIES &amp; EQUIPMENT</td>
<td>62</td>
<td></td>
<td>62</td>
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</tr>
<tr>
<td>GREASES AND PARAFFIN</td>
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<td>62</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>86,329</strong></td>
<td><strong>227,010</strong></td>
<td><strong>65,687</strong></td>
<td><strong>108,485</strong></td>
<td><strong>359,604</strong></td>
</tr>
</tbody>
</table>

* The difference of 663 tons is caused by the inclusion of November and December allocations which have not yet been produced.

*Teenage under load not included.*
My dear Mr. President:

Several days ago you requested that I furnish you with details as to the delay in placing of orders for Russia.

I am sending you herewith two charts which illustrate the delays in that part of the program with which the Treasury Procurement is concerned. These charts present a cross-sectional analysis as of October 5, 1942, of the time that it takes to turn a request by the Russians for industrial materials on Lend-Lease into an order for those materials. The requisitions covered by the charts are those that cleared the Lend-Lease Administration in the month of August, a period which is a representative one, and one for which data on the histories of the requisitions were relatively complete and readily available.

There were 203 requisitions for industrial materials for the Russians cleared by Lend-Lease in August. The first chart analyzes 199 of these - 185 on which the orders had been placed by October 5 (summarized by groups on the left-hand side of the chart) and 14 on which the orders had not been placed by October 5 (shown individually on the right-hand side of the chart). The 4 requisitions excluded from the chart were issued to cover entire power plants. These items differ from the others cleared in August in that their plans are now in the stage of engineering development, and it may require considerable time before these plans will have progressed sufficiently to permit the procurement of many of the parts needed.

The second chart focuses attention on the 48 items cleared by Lend-Lease in August on which the elapsed time from requisition date to order date exceeded 7 weeks. These items are included in Chart I but their extended period is obscured because they have been averaged in with other requisitions, the elapsed period on which was much shorter.
All bars on the charts have been classified as between the time taken at Lend-Lease Administration, War Production Board, and the Treasury Procurement Division. The starting date for each agency was taken, in each case, as the date when the requisition was cleared by all agencies with prior authority. On this basis, it should be noted that part of the period of time at Lend-Lease Administration is accounted for, on some requisitions, by negotiations between that agency and the War Production Board.

Sincerely yours,

(Signed) H. Morgenthau, Jr.

The President,

The White House.

Copy to Mr. Mack 10/9/42
MEMORANDUM TO THE SECRETARY:

In accordance with your request, the following information relative to the Russian Lend-Lease program has been prepared.

(a) All Russian Lend-Lease requisitions for the month of August have been analyzed to show the time required for processing at the Office of Lend-Lease Administration, War Production Board and the Procurement Division. The information was submitted to Mr. Tickton this morning for the preparation of a chart.

(b) The Russian Lend-Lease requisitions received at the Procurement Division during September and from October 1 to 5, 1942, inclusive have been analyzed to show the time of issuance of requisitions as compared to the time of receipt by the Procurement Division.

<table>
<thead>
<tr>
<th>Requisitions received by the Procurement Division</th>
<th>Sept.</th>
<th>Oct. 1-5</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>322</td>
<td>83</td>
</tr>
</tbody>
</table>

Above requisitions issued during months specified below:

<table>
<thead>
<tr>
<th>Month</th>
<th>Requisitions issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sept.</td>
<td>141</td>
</tr>
<tr>
<td>Aug.</td>
<td>126</td>
</tr>
<tr>
<td>July</td>
<td>45</td>
</tr>
<tr>
<td>June</td>
<td>5</td>
</tr>
<tr>
<td>May</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>322</td>
</tr>
<tr>
<td></td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>83</td>
</tr>
</tbody>
</table>

(c) Summarized statement relative to Russian tire plant program.

From February 14, to July 17, 1942, 80 contracts were placed with various manufacturers for equipment and material totaling $6,116,097 against 64 requisitions.
for a tire plant program. A letter from the War Production Board dated July 7, requested that production be delayed in order that an effort might be made to provide a suitable existing plant, pointing out that this would avoid the use of critical materials for new equipment, and relieve the load on manufacturing facilities. No action to delay production was taken on this letter until after conferences between the War Production Board and the Soviet Purchasing Commission representatives on July 24, also further investigation by War Production Board representatives. On August 5, the Procurement Division notified certain manufacturers to suspend production on contracts totaling $4,453,605. Of that amount the War Production Board has subsequently released for manufacture items totaling $1,112,944 and production has been resumed.

The present status is that the balance of the items under suspension are being reviewed by the War Production Board to determine whether suitable used equipment can be made available and the extent to which this can be accomplished. The matter is now in the hands of Mr. William Jeffers, Rubber Director, and his letter dated Oct. 2, stated that determination would be made definitely within the next few days.

(d) Priorities insufficient to guarantee scheduled deliveries.

The priority ratings now assigned by the War Production Board to many Russian contracts (primarily those for industrial machinery involving 982 contracts) are insufficient to insure scheduled deliveries. At the moment, approximately 950 contracts are in the process of rerating. We are advised by the War Production Board that this matter has been the subject of frequent discussions with the Soviet representatives during the past several weeks and the matter was also brought to the attention of the Office of Lend-Lease Administration by the Soviet Ambassador at a meeting in that office on September 25, 1942. To meet the revised delivery schedules the highest priorities will be required.

Clifton E. Mack
Director of Procurement
Time Taken to Place Orders for Lend-Lease
Industrial Supplies for Russia

Attached to this memorandum are charts which present
a cross-sectional analysis as of October 5, 1942, of the
time that it takes to turn a request by the Russians for
industrial materials on Lend-Lease into an order for those
materials. The requisitions covered by the charts are
those that cleared the Lend-Lease Administration in the
month of August, a period which is a representative one,
and one for which data on the histories of the requisitions
were relatively complete and readily available.

There were 203 requisitions for industrial materials
for the Russians cleared by Lend-Lease in August. The
first chart analyzes 199 of these -- 185 on which the or-
ders had been placed by October 5 (summarized by groups
on the left-hand side of the chart) and 14 on which the
orders had not been placed by October 5 (shown individ-
ually on the right-hand side of the chart). The 4 requi-
sitions excluded from the chart were issued to cover entire
power plants. These items differ from the others cleared
in August in that their plans are now in the stage of
engineering development and it may require considerable
time before these plans will have progressed sufficiently
to permit the procurement of many of the parts needed.

The second chart focuses attention on the 43 items
cleared by Lend-Lease in August on which the elapsed time
from requisition date to order date exceeded 7 weeks.
These items are included in Chart I but their extended
period is obscured because they have been averaged in
with other requisitions, the elapsed period on which was
much shorter.

All bars on the charts have been classified as between
the time taken at Lend-Lease Administration, War Production
Board, and the Treasury Procurement Division. The starting
date for each agency was taken, in each case, as the date
when the requisition was cleared by all agencies with prior
authority. On this basis, it should be noted that part of
the period of time at Lend-Lease Administration is accounted
for, on some requisitions, by negotiations between that
agency and the War Production Board.

Attachments