has given so much publicity. If for "diversion" any time he should happen to be present at "preaching" or "Sunday school," I trust it may so happen that his especial attention may be directed to the divine command which he will find in the twentieth chapter of Exodus—"Thou shalt not bear false witness against thy neighbor." [Applause.]

PLACING NAMES OF MANUFACTURERS ON MANUFACTURED ARTICLES.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent for a reprint of the bill (H. R. 16844) requiring manufacturers to place their names on articles they manufacture. The print of the bill has been exhausted, and there are many demands for the bill.

The SPEAKER. The gentleman from Kansas asks unanimous consent for a reprint of the bill H. R. 16844. Is there objection?

There was no objection.

GOOD-ROADS CONVENTION.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to print in the RECORD a short article which pertains to the good-roads convention.

The SPEAKER. The gentleman from Illinois asks unanimous consent to print in the RECORD a short article respecting the good-roads convention. Is there objection?

There was no objection.

The article referred to is as follows:

OFFICIAL CALL FOR A WOMEN'S STATE GOOD-ROADS CONVENTION AT THE AUDITORIUM HOTEL APRIL 3 AND 4, 1912.

At the recent Illinois State good-roads convention, on Lincoln's birthday, it was unanimously resolved to seek the aid of the women of Illinois for the great movement for good roads and streets.

An Illinois woman's good roads convention is hereby called to meet at the Auditorium Hotel on April 3 and 4 for the promotion of a more general interest among women in the good-roads movement.

The importance of this movement for good roads is being recognized as never before, and it is felt that when the women of the State add their influence to that of the press and clergy a victory will have been won, greater and more far-reaching in effect than any other within a generation. For it is a matter of tremendous import that in the United States bad roads are directly responsible for the loss of a billion dollars a year, and the saving of this stupendous sum surely constitutes an economic question of vast importance.

When the agricultural production alone of the United States for the past 11 years totals more than $70,000,000,000, a sum to stagger the imagination, and it cost more to take this product from the farm to the railway station than from such station to the American and European markets, and when the saving in cost of moving this product of agriculture over good roads instead of bad would have built a million miles of good roads, the incalculable waste of bad roads in this country is shown to be of such enormous proportions as to demand immediate reformation and the wisest and best statesmanship.

Great as is the loss to transportation, mercantile, industrial, and farming interests incomparably greater is the loss to women and children and social life, a matter as important as civilization itself, and the truth of the declaration of Charles Sumner 50 years ago, that "The two greatest forces for the advancement of civilization are the schoolmaster and good roads," is emphasized by the experience of the intervening years and points to the wisdom of a union of educational forces for aggressive action for permanent roads and streets.

Women who are interested are urged to be present from every town and county in the State.

THE ILLINOIS STATE GOOD ROADS ASSOCIATION.
ARTHUR C. JACKSON, *President.*
DAN NORMAN, *Treasurer.*
MAUDE E. JONES, *Secretary.*

—

CONSTITUTION OF THE ILLINOIS STATE GOOD ROADS' ASSOCIATION.

ARTICLE 1. The name of this organization shall be the Illinois State Good Roads' Association.

ART. 2. Its objects shall be to secure good roads and streets in Illinois, and cooperate with the National Good Roads' Association and the National Good Roads' Congress in the promotion of the objects of those organizations.

ART. 3. The official headquarters shall be in Chicago, Ill., and such other places as the board of directors may determine.

ART. 4. Only residents of Illinois who are members of the National Good Roads' Association or the National Good Roads' Congress are eligible for membership in this association, and all such are members by virtue of such membership without further fees, dues, or obligations of any kind.

ART. 5. The association shall meet annually on the second Wednesday of November at the offices of the association in Chicago, Ill., for the purpose of electing officers and for the transaction of any other business in the interest of the association. All classes of members—honorary, life, or annual—may vote upon all questions at all meetings of the association, in person or by proxy, and those present shall constitute a quorum. The president may call special meetings at any time or place, and may appoint a vice president, secretary, treasurer, consulting engineer, and organizer for each county of the State, with a view of securing a more extended and perfect organization of the association in all the counties of the State and to secure the affiliation of all possible organizations and interests, which appointments shall continue for the calendar year for which they are severally appointed.

ART. 6. The elective officers of the association shall be a president, two or more vice presidents, a secretary, a treasurer, and one other from each of the 102 counties of the State, who, with the foregoing, shall constitute the board of directors. They shall be elected by the association at the annual meeting by ballot and shall hold their respective offices for one year, or until their successors are duly elected and qualified. All vacancies may be filled by the board of directors. The president, first and second vice presidents, secretary, and treasurer shall constitute the executive committee.

ART. 7. The board of directors and executive committee shall aggressively promote the objects of the association by every means in their power. The president shall preside at all meetings of the association, the board of directors, and executive committee, sign all certificates of membership and all warrants for the disbursement of the funds of the association, name all committees not otherwise provided for, and be ex officio chairman of the same. The secretary and assistants shall make and keep on file at the offices of the association an accurate record of all members, meetings, and transactions of the association. The treasurer shall be the custodian of the funds of the association and make disbursements only for accounts properly vouchered and by warrants signed by the president, and shall give bonds for the faithful discharge of the duties of the office in such amount as the board of directors may determine. A meeting of the board of directors or executive committee may be called at any time by the president upon notice to all members, and when not so called meetings of each shall be held, when possible, on the first Tuesday of each month at the association offices. Those present shall constitute a quorum. The president, secretary, and treasurer shall each submit written reports to the association at its annual meeting, covering the transactions of their respective offices.

ART. 8. These articles may be amended only at the annual meeting herein provided for the election of officers. If a proposed amendment be published by the president and secretary in an official call for the annual meeting, a majority vote shall adopt, but any amendment not so published may only be adopted by a three-fourths vote.

ARTHUR C. JACKSON, *President.*
MAUDE E. JONES, *Secretary.*

—

CHICAGO, ILL., *March 14, 1912.*

Hon. A. J. SABATH,
House of Representatives, Washington, D. C.:

Please personally urge upon Speaker CLARK the importance of his addressing women's good roads' convention April 3 or 4.

ADELA PARKER KENDALL,
Chairman Program Committee.

THE EXCISE-TAX BILL.

Mr. UNDERWOOD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 21214) to extend the special excise tax now levied with respect to doing business by corporations to persons, and to provide revenue for the Government by levying a special excise tax with respect to doing business by individuals and copartnerships. Pending that motion, I desire to ascertain if I can reach some agreement with the gentleman from New York [Mr. PAYNE] with reference to the time to be allowed for general debate and the consideration of the bill.

Mr. PAYNE. Mr. Chairman, I will say to the gentleman from Alabama that, so far as I know, gentlemen upon this side desire between five and six hours of general debate.

Mr. UNDERWOOD. Would the gentleman be willing to debate the bill to-day, and if we can get an agreement to transfer the business in order on Monday to Thursday to continue general debate on Monday, and at 4 o'clock Monday to take up the bill for consideration under the five-minute rule?

Mr. MANN. I suggest that we take it up on Tuesday.

Mr. UNDERWOOD. The reason I ask is that there are a number of gentlemen who desire to leave the city on Tuesday, and I would like to accommodate them if I can.

Mr. MANN. I suggest to the gentleman that Monday will probably be celebrated quite extensively as St. Patrick's day, and a good many Members will be away on that day on that account.

Mr. UNDERWOOD. To-morrow, Sunday, is St. Patrick's day, but I suppose it will be celebrated on Monday.

Mr. MANN. Yes; and I think a number of gentlemen from both sides of the House will be away on account of that celebration.

Mr. UNDERWOOD. Then the gentleman is not willing to take it up for consideration under the five-minute rule at 4 o'clock on Monday?

Mr. MANN. As a matter of convenience to Members I do not think it would be well to do that.

Mr. UNDERWOOD. My request is that we close general debate on Monday at 4 o'clock and then take it up for consideration under the five-minute rule.

Mr. PAYNE. Mr. Speaker, if in the meantime we can get in 10 hours of general debate, by meeting, say, at 11 o'clock on Monday, if the gentleman is in a hurry to get a vote, perhaps that would be satisfactory. Let us say that we take five hours and a half to-day, up until 6 o'clock, and then take up the bill at 11 o'clock on Monday, if he desires to close general debate on Monday.

Mr. MANN. Mr. Speaker, there are a good many gentlemen going away on account of the celebration of St. Patrick's day on Monday. They have made engagements to speak.

Mr. UNDERWOOD. Mr. Speaker, I would ask gentlemen on the other side whether they desire to consider the bill under the five-minute rule or will they be willing to offer a substitute for the bill?

Mr. MANN. I think gentlemen would wish to consider it under the five-minute rule for a short time, probably.

Mr. PAYNE. Mr. Speaker, I will say to the gentleman from Alabama that I am not anxious to consider the bill under the

five-minute rule, because it is simply a perfunctory matter of offering amendments. Still, there may be some gentlemen who are unable to speak in the time allotted for general debate who would like to get in for a while under the five-minute rule. I think some little time might be spent in that way in debate under the five-minute rule.

Mr. UNDERWOOD. Mr. Speaker, I will make this proposition to gentlemen: That business which is in order on Monday be transferred to Thursday; that this bill shall be debated under general debate to-day and on Monday; and that on Tuesday morning, immediately after the reading of the Journal, it shall be taken up under the five-minute rule for amendments and be debated for two hours, at the end of which time the committee shall rise and report the bill to the House with amendments, if any, and that the previous question shall then be considered as ordered on the bill and amendments to final passage.

Mr. PAYNE. That is, after two hours of debate under the five-minute rule on Tuesday?

Mr. UNDERWOOD. Yes.

Mr. PAYNE. I see no objection to that, with the understanding that the time is to be used on this bill to-day and on Monday in general debate, and that we are not to have something else intervening to take the place of it.

Mr. JAMES. That is the proposition.

Mr. UNDERWOOD. Of course, that is the understanding, and that the time shall be equally divided between the gentleman from New York and myself.

Mr. PAYNE. I am content with that.

Mr. UNDERWOOD. Then, Mr. Speaker, I make this request: That business which is in order on Monday next shall be transferred to Thursday; that this bill—H. R. 21214—shall be taken up when we go into the committee for general debate to-day and on Monday; that the general debate shall close when the House adjourns on Monday, and that the bill shall be considered for two hours under the five-minute rule on Tuesday; that at the expiration of those two hours the committee shall rise and report the bill to the House with any pending amendments that are adopted; and that the previous question shall then be considered as ordered on the bill and amendments to final passage.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the business in order on Monday next be transferred to Thursday; that when the House resolves itself into the Committee of the Whole House on the state of the Union on the bill H. R. 21214, general debate shall run to-day and on Monday; that general debate shall close Monday evening, the time to be controlled on one side by himself and upon the other by the gentleman from New York [Mr. PAYNE]; that on Tuesday, after the reading of the Journal, debate upon the bill under the five-minute rule shall continue for two hours, at the end of which time the committee shall rise and report the bill to the House with amendments, if any, with the further agreement that the previous question shall then be considered as ordered on the bill and amendments to final passage. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The question is on the motion of the gentleman from Alabama that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 21214.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 21214, the excise tax bill.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] will take the chair.

Mr. MOON of Tennessee assumed the chair amidst general applause.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 21214) to extend the special excise tax now levied with respect to doing business by corporations, to persons, and to provide revenue for the Government by levying a special excise tax with respect to doing business by individuals and copartnerships.

Be it enacted, etc., That every person, firm, or copartnership residing in the United States, any Territory thereof, or in Alaska or the District of Columbia, shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such person equivalent to 1 per cent upon the entire net income over and above $5,000 received by such person from all sources during each year; or, if a nonresident, such nonresident person shall likewise be subject to pay annually a special excise tax with respect to the carrying on or doing business by such person equivalent to 1 per cent upon the amount of net income over and above $5,000 received by such person from business transacted and capital invested within the United States and its Territories, etc.

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that the first reading of the bill be dispensed with. Is there objection? [After a pause.] The Chair hears none.

Mr. UNDERWOOD. Mr. Chairman, a number of months ago the gentleman from Tennessee [Mr. HULL] introduced the first draft of this bill and is entitled to much and most of the credit for its authorship. The present bill does not conform entirely to the lines introduced by the gentleman, but in the main it does.

I therefore yield one hour to the gentleman from Tennessee [Mr. HULL] to present the bill to the House. [Applause.]

Mr. HULL. Mr. Chairman, whenever it is proposed to modify our existing system of class taxation and to add or substitute in part an honest and wholesome method, we are always met with that old cry of privilege, that the method proposed is unconstitutional or inoperative or unproductive. I desire to discuss this bill and these stock objections that have been urged against it.

Mr. Chairman, in addition to revenue the prime purpose of the pending measure is to secure justice in taxation. I therefore favor the excise tax proposed as a bona fide means of raising adequate revenue and equalizing existing tax burdens. There is no sounder rule than to require the citizen annually to pay a tax, measured by a fair and just proportion of his net gains. This golden rule of taxation has been written as nearly as possible in the measure now under consideration. This bill assumes that every American citizen is honest enough and patriotic enough to willingly bear his fair share of the tax burdens. It is expected, therefore, that this measure will encounter the opposition of those who, claiming and enjoying all the benefits of government, would shirk its burdens. The blessings and the burdens of government go hand in hand. No good citizen will invoke the one and evade the other.

Mr. Chairman, the gross inequality of our present system of taxation constitutes a severe reflection on the intelligence and the fairness of the American people. That system, unequal as it is indefensible, is the mightiest engine of oppression imposed upon an honest yeomanry since the feudal ages. The chief burden of all tariff and local taxes now falls upon the middle and poorer classes. Only those more able to pay escape it. The people of small annual earnings, not exceeding $1,500 to $2,000, including the small landowner, pay the great bulk of our local and customhouse taxation. The manner in which those of large means escape even local tax burdens is well shown in the report of the special tax commission of New York in 1907, headed by ex-Senator Warner Miller, in part as follows:

First. That the assessed value of all personal property is (in New York State) approximately $800,000,000.

Second. That the value of all personal property owned by citizens of this State is not less than $25,000,000,000.

Third. That the richer a person grows the less he pays in relation to his property or income.

Fourth. Experience has shown that under the present system personal property practically escapes taxation for either local or State purposes.

Mr. Chairman, it may be safely said that this condition exists in the State and local tax systems, in relative proportion, throughout the Union. Most large owners of real estate and concealed personalty pay nominal taxes in proportion to their ability.

Turning again to our Federal taxes, it may be said that while our internal-revenue taxes are not subject to criticism, our system of high protective-tariff taxation is an outrage in its operation and effects. It is conceived upon the idea that the people should be taxed according to their needs and practically according to their poverty. [Applause.] It is the personification of avarice and selfishness. Under it the manufacturer "taxes the masses to the limit of his ability to extort or of their ability to pay." No civilized or humane people can longer tolerate this system of diabolical extortion. In contributing $314,000,000 to the Federal Treasury, the American consumer is compelled at the same time to hand over at least $1,500,000,000 to those individuals given special favors by the high protective tariff tax. The excise tax proposes to displace customhouse revenues to the extent of at least $60,000,000, shift the burden to those having annual net profits exceeding $5,000, and, at the same time, save to the people the relative sum of $300,000,000 now collected as toll by the manufacturer for the privilege of payment by the people of high protective tariff taxes.

Edmund Burke said:

You can tax the shirt off a man's back by indirect tariff taxation without serious complaint on his part.

[Applause.]

This system has yielded fortunes to the few, but it has imposed great hardships and privations upon the many. Whichever way the middle and the poorer classes turn they are confronted with the unjust distribution of wealth and tax burdens. This system places a high premium on wealth and a severe penalty on poverty. Everywhere the complaint goes up that

the masses are burdened with Federal, State, county, and municipal taxation far beyond their just proportion and their ability to pay, while those of larger means continue to augment them with little or no disturbance from the tax gatherer. We thus have presented not alone a question of popular unrest and discontent, but of rankest injustice.

Mr. Chairman, what is the remedy? Congress should lop off all the inequalities and injustices in the present system of high-protective tariff taxation, placing it on a sound revenue basis, imposing maximum rates on luxuries and minimum rates, or none at all, on necessities, and in the absence of power to lay a comprehensive income tax impose a general excise tax on the doing of business, measured by annual net income. [Applause.] This latter method will take care of the revenue and, more nearly than any other available remedy, will equalize tax burdens.

In 1909, when the Payne bill was drafted, revenue necessities moved the Republicans to add a tax on tea, coffee, and inheritances. The tax on inheritances reached the Senate. While the Payne bill was pending there it was discovered that the adoption of a general income-tax amendment was imminent. Thereupon, in some haste, the corporation-tax amendment was brought in and adopted in lieu of the proposed tax on inheritances and incomes.

Mr. LONGWORTH. Will my colleague yield for a question?

Mr. HULL. I hope the gentleman will allow me to proceed a little further first.

Mr. LONGWORTH. Just on that question to which the gentleman is referring.

Mr. HULL. I am familiar with the statement that the gentleman made as to this in his speech two years ago.

The pending bill merely extends and makes more complete and equitable the corporation-tax law. It may be here remarked that in 1911 customs revenues fell off $19,000,000 from those of the previous year, and thus far in the fiscal year 1912 they show a still further decline of nearly $9,000,000.

Mr. Chairman, I desire to discuss the proposed excise tax, not as a tax by itself, but as a permanent part of our whole revenue system. No one method of taxation should be considered singly, but as a part of a complete system which all taxes combine to form. For the purposes I have stated, this, or a similar method of taxation, has been adopted and made a permanent part of the fiscal system in almost every other civilized government of the world. The tax which this bill proposes contains no doctrine nor method new to this country. It contains the principle and really the method embraced in the present corporation-tax act and section 27 of the excise-tax act of 1898. Each essential feature of this bill is taken almost bodily, either from the excise act of 1898 or from the present corporation-tax law, or both. The Supreme Court has, in all respects, upheld the doctrine of both acts, as well as the validity of their administrative features, in the cases of Spreckels Sugar Refining Co. against McClain (192 U. S.) and Flint v. Stone Tracy Co. (220 U. S.). No one can successfully attack the validity of the proposed tax without first having secured a reversal of the two decisions I have named. Congress has no right to assume or fear that the Supreme Court would reverse or even modify either of these decisions as they affect the proposed tax. For, in the language of Mr. Justice Brown in the income-tax cases—

Congress ought never to legislate in raising the revenues of the Government in fear that important laws like this shall encounter the veto of this court through a change in its opinion or be crippled in great political crises by its inability to raise a revenue for immediate use.

The question, and the only question, that might be raised against the validity of this tax is of easy determination in the light of recent Supreme Court decisions. Those who seek the defeat of indirect-tax measures usually offer the stereotyped objection that the tax proposed is a direct tax and therefore comes within the rule of apportionment, under the decision in the case of Pollock v. Farmers' Loan & Trust Co. (157 and 158 U. S.). But the court, in the Spreckels and the Flint cases, clearly differentiated and distinguished between this excise tax and the taxes held invalid without apportionment in the Pollock case. The Spreckels case clearly established the principle that a tax such as this bill proposes is an excise tax upon the doing of business and not a direct tax on property or its income, and therefore within the power of Congress to impose without apportionment according to population. In this decision the Supreme Court, after citing a number of cases in point, said:

In view of these and other decided cases we can not hold that the tax imposed on the plaintiff expressly with reference to its "carrying on or doing the business of refining sugar," and which was to be measured by its gross annual receipts in excess of a named sum, is other than is described in the act of Congress, a special excise tax and not a direct one to be apportioned among the States according to their respective numbers. This conclusion is inevitable from the judgments in prior cases, etc.

Mr. Chairman, this excise tax avoids the Pollock decision and in its effects, closely approximates a general income tax. The applicable provisions of the Constitution of the United States in this connection are found in Article I, section 8, clause 1, and in Article I, section 2, clause 3, and Article I, section 9, clause 4. They are, respectively:

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

From the decision of the Supreme Court in the case of Hylton v. United States (3 Dall), in 1796, down to the decision in the Pollock case in 1894, it had been uniformly held that under the Constitution there were only two kinds of direct taxes, namely, a capitation or poll tax and a tax on land. In 1894 Congress enacted a law imposing a tax on the net annual income of all persons and corporations. The validity of this act was involved in the Pollock case. The Supreme Court held certain provisions of the act invalid and disposed of the remaining provisions in the following language:

We have considered the act only in respect of the tax on income derived from real estate and from invested personal property, and have not commented on so much of it as bears on gains or profits from business, privileges, or employments, in view of the instances in which taxation on business, privileges, or employments has assumed the guise of an excise tax and been sustained as such. (158 U. S., 635.)

And as to the excise taxes, the Chief Justice said:

We do not mean to say that an act laying by apportionment a direct tax on all real estate or personal property, or the income thereof, might not also lay excise taxes on business, privileges, employments, and vocations. (P. 637.)

I may say here that I do not consider the decision in the Pollock case sound. I believe the weight of reasoning is in the dissenting opinions. But the proposed tax in nowise conflicts with the Pollock decision in the light of subsequent holdings of the court. In this decision the court merely held for the first time that, in addition to the two kinds of direct taxes I have named, there are two other kinds, viz, a tax on incomes derived from real estate and a tax on incomes derived from invested personalty. Furthermore, the language I have just read clearly conveys the understanding that those provisions of the Wilson law which levied a tax on incomes derived from businesses, trades, professions, employments, privileges, and vocations were considered free from constitutional objection. In harmony with this view the court has also held that a tax on the income of business—which is property in a sense—was an excise and not a direct tax, in the following cases:

Pacific Insurance Company v. Soule (7 Wall., 433).
Railroad Company v. Collector (100 U. S., 595).
United States v. Erie Railroad Co. (106 U. S., 327).
Springer v. United States (102 U. S., 586).

It must be conceded that, since a tax on the income of business, as above held, is not a direct tax, a tax on business itself is still further removed from the field of direct taxation.

In the license-tax cases (5 Wall.) and in the Flint case the Supreme Court thus defines the taxing power of Congress:

Congress can not tax exports, and it must impose direct taxes by the rule of apportionment and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject and may be exercised at discretion.

In the case of Knowlton v. Moore (178 U. S.) the court referred to the Pollock decision, holding a tax on incomes derived from real estate or invested personalty to be direct, and then proceeded to draw a clear line between the field of direct and indirect taxation as the latter relates to this bill in the following language:

These conclusions, however, lend no support to the contention that it was decided that duties, imposts, and excises, which are not the essential equivalents of a tax on property generally, real or personal, solely because of its ownership, must be converted into direct taxes, because it is conceived that it would be demonstrated by a close analysis that they could not be shifted from the person upon whom they first fall.

Under its excise power, as more definitely defined in the Pollock case, Congress in 1898 imposed an excise tax upon the doing of either of three designated businesses by persons, firms, or corporations, the tax to be measured by a percentage of the earnings derived from the business carried on. Construing this act in the Spreckels case the Supreme Court not only said this was a tax on "the doing or carrying on of business," and not a tax on the income derived therefrom, but that the tax was not payable unless there was a carrying on of business as designated. It is important also to note the holding of the court in this case that the measure of such tax may be the income from the business, although a part of the income is derived from real estate, which is nontaxable without apportionment, either in itself or as to its income.

It will be seen, also, that this excise act of 1898 laid an excise tax simply on "the doing or carrying on of business," without regard to the capacity in which it might be carried on, alike on all persons, companies, and corporations. Mr. Chairman, the pending bill contains the identical language of section 27 of the act cited as to the subject of the tax, viz, "The doing or carrying on of business." In the act of 1898 Congress desired to limit the subject of the tax, with the result that it provided a basis of classification by designating the doing of three kinds of business on which the tax should fall. Since this tax applied to "every person, firm, or corporation," without exemption of either, no basis of classification as to the persons taxed was necessary, and the addition of the words "doing business in a corporate capacity" after the word "corporations" would have been surplusage. This term was properly used in the corporation-tax act, however, as a basis for classifying corporations for taxation and thereby exempting individuals and firms.

Mr. Chairman, Congress may lay an excise tax on business by almost innumerable methods both as to the subject of the tax and the person taxed. This tax might be applied to one designated business, or to a limited number of designated businesses, or to all kinds of business without special designation of either. The tax might likewise be applied to all persons, firms, and corporations, or to either, or to certain classes of either.

In the Flint case the Supreme Court said:

> In levying excise taxes the most ample authority has been recognized from the beginning to select some and omit other possible subjects of taxation, to select one calling and omit another, to tax one class of property and to forbear to tax another.

The court went on to cite 14 decisions upholding as many different excise-tax levies by Congress. In the Pollock case it was agreed by both counsel and the court that Congress had the unquestioned power to tax corporations and individuals in the same manner and at the same rate. Nothing to the contrary was even intimated by either the court or counsel in the Spreckels and Flint cases; in fact, it was assumed.

In the Flint case the court held that this tax could be measured not alone by the net income derived from a particular business source but from all sources, including net income from real estate or State and municipal bonds. Yet, I repeat, Congress has no power to levy a tax on either real estate or the net income therefrom without apportionment; and it has no power to levy a tax at all directly or indirectly on State or municipal bonds nor the income therefrom.

Mr. Chairman, to further discuss the validity of the proposed bill largely involves a repetition of the legal controversies, now settled, which were had with respect to the validity of the excise acts of 1898 and 1909, and I shall therefore proceed to discuss other phases of the bill. The controlling purpose of many countries in adopting this or a similar tax has been to equalize the tax burdens by reaching those paying the least taxes but most able to pay. In no other way has it been found possible to keep down the rising tide of popular discontent, unrest, and criticism due to tax systems which, like ours, imposed grossly disproportionate burdens upon the people. I insist that this or an income tax is the only efficient method of equalizing taxation in this country. Republicans in the main, obeying the behest of the protected and other special interests, have long looked with disfavor upon such a tax. They now do. [Applause on the Democratic side.] They support a measure tending in this direction only when writhing under the lash of public sentiment or as a means of defeating a like measure more comprehensive. In their zeal to perpetuate their system of high protective tariff taxation and the trusts, most Republicans contend that a general excise or income tax ought not to be levied save in times of great emergency and that it should be only a temporary tax. President Taft in various utterances has indicated this view. In other words, the Republican doctrine is that our present high taxes on food, clothing, shelter—on all the prime necessaries of life—should be made permanent, but that all taxes measured by the great incomes derived from colossal wealth should be very temporary. [Applause.] The gentleman from Massachusetts [Mr. MCCALL] stated the stock argument of privilege always made against this kind of indirect taxation when he wrote in his minority report on the sugar bill that this proposed tax was "a direct tax and probably unconstitutional." But since this view has proven so untenable, the opposition falls back upon the plan of attempting to discredit this bill by the plea that its scope is not broad enough to apply to that class of persons possessing large wealth and income. This objection is not based upon a desire to see this tax reach the few persons to whom this bill will not apply, but it springs from an overweening desire to discredit this entire method of taxation. Every device that privilege could conjure up has always been thrown in the way of this and income taxation. Many opponents of this and the income method of taxation now urge against this measure the sinister plea that it is invalid and inoperative and that it is necessary indefinitely to delay this wholesome legislation until the ratification of the pending income-tax amendment. At the same time others most active in their opposition to the income-tax amendment say that Congress already has practically the same power and facility of taxation, viz, the excise tax. On page 26 of the memorial presented to the New York Legislature in 1910 by Joseph H. Choate, John G. Milburn, William D. Guthrie, Francis L. Stetson, and others, protesting against the ratification of the income-tax amendment, I find this language:

> The corporation tax law of 1909 is an income tax on the business of corporations and is not apportioned, because an excise, and it will ultimately produce a very large revenue. Every business, every source of production can be similarly reached. A competent commission, such as would be appointed in England, would in a few months devise a complete and equitable system of excise taxation, provided, of course, political considerations did not paralyze them.

We see that when one of these kindred methods of taxation is proposed the opponents of both methods play the other against it as the best available means of defeating both. I say the proposed legislation will hasten the ratification of the income-tax amendment.

Mr. Chairman, the scope of the application of the proposed tax must necessarily be determined by the comprehensiveness of the term "business" as defined in the act. The Supreme Court has laid down its tax-meaning definition as follows:

> Everything about which a person can be employed; all activities which occupy the time, attention, and labor of persons for the purpose of a livelihood or profit.

How could this definition be more comprehensive? The Supreme Court thus wrote into the Flint decision the broadest meaning of the term "business" for the purpose of making it the subject of an excise tax. No definition of business given in any other sense is so wide in its scope. First, it embraces "everything about which a person can be employed"; second, it embraces all activities engaged in by a person "for the purpose of a livelihood or profit." All the court decisions and textbook writers say that the term "business," as correctly defined in this bill "in its broadest sense includes nearly all the affairs in which either an individual or a corporation can be actors." (Cyclopedia of Law and Procedure and citations therein, vol. 6, p. 260.)

In ascertaining whether the proposed tax applies to a person the only inquiry is whether that person is engaged in such activities as come within the phrase "carrying on or doing business." If so, he is liable for the tax whether such activities are few or many, frequent or infrequent, narrow or broad, or relate to real estate or invested personalty which can not be taxed in itself or as to its income. Whether a person is "doing business" must depend on the special facts of each case. I agree that the mere ownership of property unaccompanied by any activities in the sense above defined would not bring such owner within the application of the proposed law. However, the most casual reflection must convince one that the number or class of persons who would thus escape taxation would be remote.

The opposition to this bill—deliberately disregarding the plain holding of both the Spreckels and the Flint cases—seem to contend that this tax is in legal effect an income tax and can not therefore be measured by incomes derived from real estate and invested personalty, because the Pollock decision held that a tax could not be laid directly upon such incomes, and because the court held, in the case of Zonne *v.* Minneapolis Syndicate (220 U. S.), that under the particular facts of that case a realty corporation was not liable for an excise business tax. This view entirely overlooks the fact that in the Minnesota case the court merely held that since the corporation was not performing a single activity in respect to the real estate to which it merely held title, nor a single business activity in any other respect, the company, therefore, was not "doing business" and so not subject to any tax. If, entirely apart from its ownership of this real estate, this corporation had been engaged in any other kind of business activities within the meaning of the term "business," the tax would have applied and been measured by the income from all sources, including the real estate in question. This latter rule would apply to all persons merely owning real estate or invested personalty and performing no activity in respect thereto, but at the same time performing business activities entirely disconnected therefrom. This Minnesota case does not embrace those large holders of real estate, mortgages on realty and personalty, bonds, and other securities who devote their activities in person or through numerous agents and employees, or both, to the work of looking after and managing their property and guarding their mortgage and other rights

and collecting interest or other compensation with respect thereto.

It can not be conceived that when the Supreme Court in the Pollock case removed from the field of income taxation, except by the utterly impractical method of apportionment, that great class of wealth embraced in the terms "real estate and invested personalty," the court intended thereby to place the bulk of the country's wealth beyond the efficient taxing power of Congress. That decision, in the light of the Spreckels and Flint decisions, necessarily contemplated that there still rests in Congress the undoubted power to accomplish practically the same revenue purposes by other feasible methods of taxation and which is now well established, including an excise tax on business. In applying this tax we must also keep in mind the fact that under our modern industrial, financial, and commercial conditions an individual may limit his personal business activities to a very narrow scope, employing only at occasional intervals but little of his time, attention, or labor, and yet that person may, by means of his wealth, by general direction or supervision, be a tremendous factor or agency in placing or keeping in operation immense business activities.

To be engaged in business under this bill it is not necessary that one should in his physical person, or in a strictly official capacity, be immediately and proximately connected with the business carried on. To better illustrate: The bondholders of corporations are not subject to the corporation tax. The bonded debt of a corporation is a part of its capital, even more so than the stock at times, because the latter is often watered. Interest on such bonds is usually preferred in payment to the dividends to stockholders. The bondholder is interested in keeping his bonds at a fair market value and in the certain payment of proper interest thereon. The result is that they are usually given, or at least they exercise, authority to maintain, in an organized or other capacity, a general supervision over the conduct and management of the corporate business, although they are neither officers nor stockholders therein. The time, attention, and labor thus bestowed would clearly subject such bondholders to this tax. This business fact should also be applied to the holders of mortgages on realty and personalty and considered in connection with their other activities, including those of loooking after and protecting their property and collecting interest thereon. Furthermore, when we consider the ramifications and complexities of modern business, the innumerable forms of wealth and its countless uses, the close business relationship and connection existing between the large holders of mortgages, bonds, and other securities and those actively conducting great business enterprises, their interdependency of interests, and their frequent and continuing business cooperation, and so forth, it would, in my judgment, be difficult to find but a limited number of the former to whom this tax would not apply.

Mr. Chairman, it is admitted that in a case where an owner of real estate, for a fixed rental, leases the same for a long term of years, and thereby parting with the entire control, care, and management of the same, and ceasing to perform any activity in respect thereto, merely receiving the rentals, this tax, in the absence of other business activities, would not apply. However, these exceptions would not embrace that large field of activities consisting of short-term leases of realty under such terms or conditions as that the owner continues a factor, directly or indirectly, or in a general way, either in furnishing supplies, equipments, or repairs during or at the beginning of each rental period, or in the care, management, or general supervision or control of the same.

Mr. CANNON. Will the gentleman allow me right there to ask him a question? I am following him with much interest.

Mr. HULL. I yield to the gentleman.

Mr. CANNON. If a man has an income on a lease of one year or five years or any number of years of $5,000, that would not come, according to the gentleman's contention, within the provisions of the act and be liable to a tax, provided he was doing nothing else? Is that the gentleman's statement?

Mr. HULL. I will say to the gentleman from Illinois that I am undertaking to set out what I consider the general rules applicable to the different phases of the operation of this bill. There are 10,000 business conditions existing in this country. I am undertaking to use here terms that are well settled both in the court decisions and in the law books. As to the application of the rules which this proposed legislation embodies, that is a matter that would naturally be left to the administrative officials. I am about to make a further statement in connection with the inquiry of the gentleman which will shed some more light.

Mr. CANNON. If the gentleman will allow me just there, I am not controverting his conclusions, but I wanted to see what they were. I would be glad to know if a man has $6,000 worth of income on a lease, running for a number of years, and is doing nothing else in the world, if the gentleman is inclined to the opinion that that would not be subject to taxation under the proposed law, but if he was making a hundred dollars keeping a candy shop or doing anything else that would bring him within the law and make the $6,000 of rent taxable? In making up the statement is the $100 or the $1,000 he might have from an activity wholly dissociated from the income from the leasehold?

Mr. HULL. That statement that when the tax once lodges on any business it is measured by the income from all sources is correct, and it would be true in nine-tenths of the cases, in my judgment, that income from a lease, as the gentleman suggests, would be embraced in measuring the tax, even though it should be true in some instances that no business activities were engaged in with respect to the use of such property, but in other respects.

Passing to another phase, Mr. Chairman, this bill would reach all the individual bondholders and practically all the individual stockholders of holding corporations in this country. The corporation-tax law exempts from its provisions all "amounts received by a corporation as dividends upon stock of other corporations subject to the tax." This practically exempts all holding companies from the corporation tax, for the reason that virtually all their stock is invested in their subsidiary companies. Many States prohibit the organization of these holding companies on grounds of public policy. In the Northern Securities case the Supreme Court held one great holding corporation illegal. The purpose of many large holding companies is to control and monopolize production in different lines. In the circumstances both their stock and bond holders can well afford and ought to pay this tax.

Mr. Chairman, the conclusion is therefore inevitable that when we consider the laws, rules, methods, and conditions of modern business, but a limited number of the holders of great wealth would escape this tax.

As I stated to the gentleman from Illinois [Mr. CANNON] a few moments ago, in 9 cases out of 10 it would be found that that same person, even if he is not performing a single business activity with respect to that property, is engaged in business in the sense of this bill with respect to other property or in some other respect as defined by the term "business."

The gentleman from Massachusetts [Mr. MCCALL] in his report on the sugar bill makes the following statement concerning the proposed bill:

It would treat the right to work and its necessity as a franchise, the exercise of which should be taxed.

If this statement emanated from any other source less high and respectable I should characterize it as pure buncombe, the sole purpose of which is to divert attention from the real facts and merits of this bill. This is the same objection, differently phrased, that has so long done service for privilege against an income tax. Since Congress can not tax all incomes, it becomes necessary, in order to accomplish the same revenue purposes, to lodge the tax elsewhere and measure it by the income. In determining the merits of this tax the people will look at the results. Besides, this tax confers no right or privilege as to business which does not otherwise exist. The people know that all Government taxes fall on them. Of what concern to them is the name of a particular tax or of any tax? Their sole concern is that all taxes shall be for revenue and shall be imposed justly and fairly and according to ability to pay.

Let us compare for a moment the proposed tax with the present unspeakable Republican high-tariff tax. Our Republican tariff tax, for the benefit of the Sugar Trust, the Steel Trust, the Beef Trust, the Woolen Trust, and hundreds of other favored and fattened creatures of privilege, ruthlessly exacts of every citizen, including the millions who are in a state of poverty and hunger, a tax upon every bite of food he eats and upon every garment of clothing he wears. According to the logic of the gentleman from Massachusetts, the Republican high-tariff tax treats the right to "eat" and to "wear clothes" as a franchise and places a heavy tax on its exercise, thereby creating the present high cost of living. [Applause on the Democratic side.]

On the other hand, the pending measure does not tax poverty or want; does not tax any human being unless he is "doing business" and has net annual earnings exceeding $5,000. This amount, when capitalized at the current rate of interest, is equivalent to property of more than $80,000. This method of tax lightens the burdens of those now so greatly overburdened by displacing pro tanto the odious protective tariff tax I have just described.

Mr. Chairman, I now desire briefly to discuss the administrative features of this bill. In drafting its administrative provisions the most desirable and practical features of similar tax

laws were utilized. Under it no person becomes subject to any tax unless there is a remainder of his annual earnings left after deducting necessary expenses incurred in carrying on his business, all interest paid within the year on existing indebtedness, all national, State, county, school, and municipal taxes, all losses actually sustained during the year, incurred in trade, or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise, and debts warranted to be worthless, and also $5,000. Suitable and adequate provisions are contained in this measure requiring the making of returns in all proper cases; likewise suitable and adequate remedies in case of the making of false or fraudulent return by any person or an inadequate return. This act conforms to the corporation-tax law as to the time of making assessments, tax returns, and collections thereon. In addition to the remedies of both the Government and the taxpayer contained in this bill, the general law relating to the assessment and collection of internal revenue will be in force wherever applicable. Section 3167, for example, prohibits, under severe penalty, the divulging or making known in any manner not provided by law any phase of the business or other affairs of a taxpayer as set forth or disclosed in his tax returns, or in other manner. Notwithstanding these features which are intended to reduce the inquisitorial provisions to the minimum of annoyance or objection on the part of the taxpayer, it is contended by the opposition to this tax that its inquisitorialness constitutes a fatal objection to the tax.

I challenge a comparison of the methods of assessing and collecting this tax with those relating to both our State and National taxes. The inquisitorial features of our State tax laws are most rigid. They require the taxpayer to disclose, under both civil and criminal penalties, every kind and item of property possessed, even including heirlooms, trinkets, and jewelry belonging to members of the taxpayer's family. In many States these tax returns are made public and kept open for public inspection, notably in New York, Connecticut, Maryland, Pennsylvania, and New Hampshire. The right of personal search and seizure prevades our customs system of taxation, and the machinery of assessment and collection is necessarily intricate and exacting in a high degree.

I here call attention, Mr. Chairman, to section 3064 of the Revised Statutes, giving ample warrant for personal search and seizure:

> The Secretary of the Treasury may from time to time prescribe regulations for the search of persons and baggage and for the employment of female inspectors for the examination and search of persons of their own sex, and all persons coming into the United States from foreign countries shall be liable to detention and search by authorized officers and agents of the Government under such regulations.

Under this statute the newspapers of March, 1911, contained an account of the personal seizure and search of an American lady of the highest standing and character. Similar cases often arise. It seems that some irresponsible person in Europe wired an American customs agent that this lady was suspected of bringing in a diamond necklace. The following newspaper extract discloses the method of dealing with cases based upon such information. I omit the name:

> After the five trunks had been ordered sent away, Mrs. ——— was asked by Special Agent Wilson if she had a diamond necklace, and she declared that she knew nothing about any necklace. Wilson thereupon ordered a woman inspector to take Mrs. ——— and her daughter into a stateroom and search them thoroughly. Mrs. ——— said later, with tears, that she had been compelled to remove even her stockings. The search brought forth nothing dutiable.

I challenge the opposition to this tax to point out any features relating to its collection which compares with the workings of our customs-tax law with respect to inquisitorialness, search, and seizure. [Applause in the Democratic side.]

Furthermore, no honest person has a right to complain about reasonable regulations designed to prevent dishonesty. Neither have dishonest persons a right to make such complaint. I do not believe the proposed law would to a material extent increase dishonesty or falsehood in making tax returns, as opponents of this tax charge. Until the contrary is proven, I consider this intimation a slander against the possessors of large incomes in this country. I believe they now realize the wisdom and necessity, if they do not concede the justice, of bearing their fair share of burdens. However, if the objection offered be true in any measure it should not militate against the enactment and enforcement of this tax. To any dishonest taxpayer there should be applied the thumbscrews of the law. I both despise and pity those who place selfishness above morality, greed above honesty, and perjury above patriotism. [Applause on the Democratic side.]

Mr. Chairman, the chief difficulty originally experienced in the enactment of excise or income tax laws has been in their administration. However, other countries during recent years have developed the administrative features to a most satisfactory extent.

Mr. JACKSON. Mr. Chairman, will the gentleman permit a question?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Kansas?

Mr. HULL. If the gentleman will let me make this statement I will be glad to yield to him later.

The proposed law contains in its administrative provisions a new feature known as "collection at the source." This method of levying and collecting the income tax resulted in doubling the revenue in England the first year after its adoption. England collects nearly $200,000,000 from an income tax. The law with its modernized administrative features works admirably.

The chief reason for its splendid success is its justice as a tax and the system of collection at the source. Its inquisitorial features are thus minimized and afford little cause for complaint. Under this stoppage at the source plan more than two-thirds of this tax is collected in England. It may be said that there is a vast difference between the antiquated income-tax machinery formerly in operation in this country and that contained in the pending bill by reason of the stoppage at the source feature.

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

Mr. UNDERWOOD. Mr. Chairman, I yield to the gentleman 10 minutes more.

The CHAIRMAN. The gentleman from Tennessee [Mr. HULL] is recognized for 10 minutes more.

Mr. HULL. This provision of collection at the source is based upon the fact that all persons receive an income from some source. It is therefore provided that, wherever possible, the payer of the income shall withhold the tax due thereon and make payment to the Government. As to all incomes by which the tax is thus measured and paid the individual taxpayer is not required to make personal return. For example, the Government, corporations, copartnerships, and persons paying annual earnings to employees or other persons in excess of $5,000 would deduct and withhold the tax and pay to the Government. This method would likewise apply to mortgagors and lessees of real or personal property. By this method the taxpayer would not come in contact with a revenue official, nor would he have the opportunity or temptation to make a false or inadequate return of his income. This largely obviates the objection of inquisitorialness. As I have stated, comparatively little intangible personalty is reached and assessed for taxation. This stoppage-at-the-source method intercepts income therefrom. In my judgment, three-fourths of the tax derived under the proposed law would thus be collected. The United States affords excellent conditions for the successful operation of this system of collection. Unlike Great Britain and France, most of our wealth is kept at home. And the great number of firms, corporations, and other large business agencies peculiarly adapt this country to the easy collection of this excise tax at the source.

Mr. JACKSON. Mr. Chairman, will the gentleman now permit a question?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Kansas?

Mr. HULL. Yes.

Mr. JACKSON. This law does adopt, does it not, the general machinery for the collection of our present excise or internal revenue?

Mr. HULL. I just stated that, so far as they are applicable, the features of the general administrative internal revenue would be brought into use.

Mr. JACKSON. Does not the gentleman think that the severity of some of those methods compare very favorably with those of the internal-revenue machinery and with the processes that he has just described in the carrying out of the proposed law?

Mr. HULL. Well, Mr. Chairman, in answer to the gentleman from Kansas, I do not know whether he is opposed to this kind of taxation or not, but I will be candid in saying to him that under the proposed measure, in my judgment, at least three-fourths of the taxes would be collected at the source of the income, so that the taxpayer would not even see an assessment or a revenue official.

And there is another provision which, under the most severe penalties, prohibits any Government official from disclosing any kind or character of information relative to the facts embraced within the tax returns of those officials. Ample provision is made for appeal in all cases from the decision of the lower revenue officials to the higher ones. Objections of a captious nature can be offered to any tax law when applied to the taxpayer who is undertaking to avoid the payment of his full taxes.

Mr. JACKSON. I wanted to call the attention of the gentleman, if he will permit, to one phase of the corporation-tax

law. That law, as the gentleman will remember, provided for the same exemptions that this proposed law does, and the collector held that all corporations were compelled to report, and then he dug down and found a statute which permitted him to compromise penalties, and under these two provisions he has collected a penalty of from $15 to $35 from every corporation in the country which failed to file its report before the 1st of March. What I want to know of the gentleman is, Would not that same provision apply to this proposed law?

Mr. HULL. This bill provides that no person shall make an income return unless his income is over $4,500. There is no such exemption of corporations.

Mr. JACKSON. It was conceded that these corporations were not within the exemption.

Mr. HULL. I hope the gentleman will pardon me for not yielding further.

In conclusion, Mr. Chairman, I wish Congress now had the power to enact a comprehensive graduated income tax with lower rates on earned and higher rates on unearned income. In the absence of such power Congress can only seek by a similar enactment to approximate that much-desired end. The present bill is not as I should have drafted it as an original proposition; but it was deemed wise, if not necessary, that in its terms it should conform to the corporation-tax law. This bill would impose just instead of unjust, honest instead of dishonest, taxation. More than any other agency it would equalize the burdens of Government, State, county, and municipal taxation. The tax is productive, cheap of collection, and the fairest and least burdensome of all taxes. This bill should become a law. The minds of the people are made up. They have determined to have fiscal reform in this country. In this behalf they propose to go on record next November. I have recently said in this House, and I repeat it now:

This country is approaching a tax revolution. The defenders of privilege, so long triumphant, can not turn back the tide of fiscal reform. Their opposition is a challenge to the civilization and representative government of our twentieth century. [Applause on the Democratic side.] Is our present hideous, monstrous system of taxation to go down in history as the culmination of centuries of Anglo-Saxon legislation? No. Some Pitt or Cobden, some Peel or Gladstone, will rise up and engage its champions in a battle to the death. And their ardent followers will constitute the best manhood and patriotism of this country—the type of citizenship that wrought out this Government, that has safely guided it through the trials and vicissitudes of more than 100 years, that has been its mainstay in the past and will be its glory in the future. [Applause on the Democratic side.]

Mr. PAYNE. Mr. Chairman, I yield one hour to the gentleman from Ohio [Mr. LONGWORTH].

The CHAIRMAN. The gentleman from Ohio [Mr. LONGWORTH] is recognized.

Mr. LONGWORTH. Mr. Chairman, we have just emerged from a battle in which the foes of protection are for the moment triumphant, and two great American industries lie bleeding in the dust.

But that is not all. Had the damage stopped there it would have been bad enough, but in the wake of the carnage follows also the destruction of one-fifth of our customs revenues. Sixty million dollars of the annual income of the Treasury has been thrown away, and it is the bill before us to-day that its proponents say is expected to make it up.

This is the twin, Mr. Chairman, that was born on the same day and conceived by the same brains as its brother, which has just emerged from its swaddling clothes so far as this House is concerned.

Can this bill do the work for which it was designed? That is the question which confronts us. By so much as it shall fall short of making good, by so much must it be adjudged a failure. If it shall not succeed in making good in any respect, then it were better that it had never been born.

I do not know, Mr. Chairman, who is entitled to the laurel wreath as the victor of this battle. Of course, if the gentleman from Alabama [Mr. UNDERWOOD] should lay claim to it, there is no one on that side, I assume, who would dispute him. But I can not help thinking that free sugar tastes more bitter than sweet to the gentleman from Alabama, and if he shall not claim the crown of victory, then the title of another gentleman on that side of the House is clear.

I doubt not that the gentleman from Alabama [Mr. UNDERWOOD] views with some complacency the high tribute paid to him the other day by a distinguished ex-Senator of the United States. It falls to the lot of a few men nowadays to hear themselves likened to Napoleon. But possibly this ex-Senator may have been wrong. It is clear to me that the gentleman from Georgia [Mr. HARDWICK] in this case is entitled to call himself not only in fact but in theory "the Little Corporal." He has run over the gentleman from Alabama. He has forced him to abandon every principle that he has stood for since the gentleman from Alabama became chairman of the Committee on Ways and Means.

Up to this time the gentleman from Alabama has opposed free trade constantly and consistently. He has maintained that practically every import should bear a duty for revenue purposes. He would not allow even pepper to remain on the free list, where it rightfully belongs, and where it has been since the Republican Party has been in control of legislation in this House. But when he came to sugar the gentleman from Georgia [Mr. HARDWICK] and his cohorts overwhelmed him, and all his plans for revenue duties have been swept away.

Not again in this Congress can the gentleman from Alabama maintain his former position. If it is unjust to tax sugar for revenue purposes, where is the justice in taxing pepper and other articles that have an equal place with sugar on the table of the average American citizen? The gentleman from Alabama voted for a duty of 20 per cent on wool, as did his followers on that side of the House. If a revenue duty on sugar is unjust, if it is unjust to tax some of the poor man's food, is it not equally unjust to tax his clothing? Every civilized country considers sugar as a legitimate revenue-producing article. Every other country but this, if this bill should be enacted, would still have a duty on sugar.

No country but this imposes a duty on raw wool. Does the majority of the Ways and Means Committee intend to bring in a bill to place wool on the free list? If not, why not? If this alleged excise income tax has the powers that you say it has of producing revenue, if it is going to pay for free sugar, why should you not make it pay for free wool? If, as you say, this excise tax of 1 per cent will raise $60,000,000, why not make the rate 2 per cent and raise $120,000,000? Then you can put on the free list wool and most articles of daily necessity, and perhaps we could even induce you to remove the duty on pepper. Why not make it 3 per cent or 4 per cent or 5 per cent, at which point you could afford to abolish the customhouses of this country altogether?

Gentlemen, why do you not make this tax higher if by doing so you can produce a revenue sufficient for the purposes I have named? It is because in your hearts you know that it will not raise the revenue you say it will or even a small fraction of it. You are not treating the American people fairly in this case, gentlemen. This bill is introduced purely for political purposes, and so far as the production of $60,000,000 revenue is concerned it is a fake pure and simple. The American people have intrusted you with control of legislation upon the floor of this House. They are entitled to expect at least serious constructive effort from you. This bill is not serious constructive effort. It is a farce upon its face, and it is a farce that may turn out in your case, gentleman, to be a tragedy.

The gentleman from Tennessee [Mr. HULL] who has just taken his seat made a very plausible and able argument upon the constitutionality of this bill. But did any one of you hear him say a word about the figures upon which estimates of the majority were based? Not one word or figure appears in their report to show that this bill will raise the revenue they say it will. It is pure guesswork and it is bad guesswork. In our report we have given you the figures and the facts to prove the figures. We have laid our cards face up on the table. Why do you not do likewise? It is because you know that an investigation of this question by any fairly intelligent man will prove beyond any conceivable shadow of doubt that if your bill is constitutional in every single respect, which it is not, you could not raise 1 cent more than $20,000,000 a year. And when you eliminate the evidently unconstitutional features of this bill, those features admitted by the gentleman from Tennessee [Mr. HULL] to be unconstitutional, you will not raise more than ten, or at the outside fifteen, millions dollars under this bill.

Mr. KITCHIN. The gentleman from Tennessee [Mr. HULL] is not here, having just stepped out. I do not recall his admitting that there was any unconstitutional feature in this bill.

Mr. LONGWORTH. The gentleman from Tennessee in his speech admitted that the tax upon the income received from real estate was not constitutional.

Mr. KITCHIN. Oh, no. He made an argument exactly to the contrary and showed that the Supreme Court had decided in the Flint and other corporation tax cases that any income from any source, real estate or otherwise, would be taxable, and he read the language of the Flint case, in which it declared that the point made as to the unconstitutionality of an income tax from real estate was not sound, and that we could tax incomes from real estate of corporations, although the real estate was not employed in the business at all. That is one of the main points decided by the Supreme Court.

Mr. LONGWORTH. I regret that the gentleman from Tennessee [Mr. HULL] is not here, as I should dislike very much to misrepresent him, but I heard the gentleman quote with approval the decision of the Supreme of the United States in the Zonne case, in which the court held specifically that a corporation organized for the purpose of receiving rents from real estate and distributing them among its stockholders was not doing business within the terms of the act.

Mr. KITCHIN. I beg the gentleman's pardon. The Supreme Court does not hold that at all. The Supreme Court declared in the very case cited by the gentleman from Ohio, the Zonne case, that a corporation organized for the purpose of owning and renting real estate would be taxable as to its income from such real estate; but that case went off on the point that the corporation had surrendered its corporate powers by amended charter, and had conveyed its property to individuals, and the court held it was no longer a corporation under the meaning of the act of 1909, because it had "wholly parted with control and management of the property"—these are the words of the court—of this source of income; that "the corporation had practically gone out of business with respect to the property and had disqualified itself by the terms of reorganization from any activity in connection with it," having conveyed it to individuals or trustees, and therefore the individuals or trustees were holding and renting it, and that the income from such real estate could not be taxed as income of a corporation.

Mr. LONGWORTH. I will have to ask the gentleman not to take up quite so much time.

Mr. KITCHIN. The gentleman from Tennessee [Mr. HULL] is not here, and I wanted to keep the gentleman straight as to his contention and argument. I know the gentleman does not want to misrepresent the gentleman from Tennessee, and would not do it.

Mr. LONGWORTH. Of course not.

Mr. KITCHIN. I think the gentleman has not misrepresented him, but has misconstrued his position.

Mr. PAYNE. Now, the gentleman from North Carolina takes up more time to apologize for what he took up before.

Mr. KITCHIN. I will yield to the gentleman from Ohio some of my time, then.

Mr. LONGWORTH. Under the decision quoted with approval by the gentleman from Tennessee [Mr. HULL] it was held that a corporation which received rents from real estate and distributed them among its stockholders was not doing business as contemplated by the act. How much more would that be true of an individual? How could you tax an individual under this act one cent upon his income received from real estate? The Supreme Court has held specifically that this is not "business" when done by a corporation. How much less could it be construed as "business" in the case of an individual?

Why, Mr. Chairman, in their own report the majority of this committee say that idle wealth held by idle persons will escape taxation under this bill. No man can be taxed one cent upon the income he receives from a mortgage or a bond or a ground rent. I do not care whether you call it "business" income or what you call it; that is idle wealth in the hands of idle persons, and is exempt from taxation according to the report of the majority.

Now, I had not intended to discuss at this point the constitutionality of this bill. Before doing so I want to say a word about the revenue features of it. The constitutionality of this bill is not the most important question to be decided by this House. If this bill can not raise the revenue made necessary by the passage of the sugar bill, it makes little difference whether it be constitutional or not. If this bill can not raise over $20,000,000 revenue why should we pass it, whether it is constitutional or not? I challenge any gentleman upon that side of the House to show in any way, by any figures, that this bill will raise at the most as much as $20,000,000 a year. The mere supposition that there would remain in this country incomes, after eliminating the incomes specifically exempted, like those received from corporations netting more than $5,000 a year, incomes from State, municipal, and county bonds sufficient to raise this $60,000,000 is utterly and absolutely absurd.

Think of it for a moment, Mr. Chairman. You are forced to presuppose, and this bill presupposes, that there are in this country incomes, not including the income of anyone who has less than $5,000 a year, not including any incomes received from State, county, and municipal bonds, not including incomes received from stock in corporations that net more than $5,000 a year, amounting to the terrific total of $6,000,000,000.

Mr. KITCHIN. Would it interrupt the gentleman to read the case that the gentleman cited a little while ago, or about five lines of it?

Mr. LONGWORTH. I will be glad to do so a little later.

Mr. YOUNG of Michigan. Will the gentleman permit a suggestion right there?

Mr. LONGWORTH. Certainly.

Mr. YOUNG of Michigan. Has not the gentleman forgotten one other exception, and a very large one—and that is those incomes derived by individuals from corporate stock that he did not mention?

Mr. LONGWORTH. I included in the statement I have just made incomes received by persons having investments in stock of corporations which earn more than $5,000 a year. I certainly intended to do so, and think that I did.

To state the proposition in another way: If this bill is expected to reach incomes amounting to $6,000,000,000 a year we are forced to suppose that there is wealth in this country not touched by the corporation tax, not specifically exempted by this bill, that amounts to $150,000,000,000.

The immense amount of property owned by railroads, mining corporations, and the like; all the vast accumulations of wealth owned by individuals through any form of corporate organization; the total debt of all States, counties, and municipalities; every dollar's worth of property owned by any American citizen who has a "business" income of less than $5,000 a year—all these forms of wealth must be eliminated from our calculations of the sources from which the tax provided in this bill must be derived.

Is the proposition that there still remains $150,000,000,000 worth of property, producing on an average a net income of 4 per cent, to be taken seriously?

The last complete census figures I have been able to find show that the total national wealth of this country in 1904 was $107,000,000. The highest limit that I have heard placed upon our national wealth to-day is $130,000,000. Bear in mind that this includes every form of property owned by corporations as well as individuals, every form of property owned by individuals having incomes of less than $5,000 a year as well as those who are more prosperous.

And yet we are asked by the proponents of this bill to believe that the total wealth that will be reached by it, with all of its exemptions, exceeds the total wealth of the country by $30,000,000,000.

The majority of the Ways and Means Committee, in making their revenue estimate, say in the report:

Due consideration has also been taken of the results of the experience of other countries in raising revenue from similar taxes.

A few moments ago the gentleman from Tennessee [Mr. HULL] said that the British income tax produces nearly $200,000,000 a year. As a matter of fact, he slightly swelled the figures. The largest amount ever raised under the British income-tax law was $180,000,000 a year. But he neglected to state that the rate in Great Britain is 6 per cent and not 1 per cent, and that all incomes are taxed which exceed $800 a year and not $5,000 a year, as in this bill.

I have taken the pains to calculate the amount that this tax would raise if applied to Great Britain. The gentleman from Tennessee has told us of the marvelous machinery that Great Britain has for determining the incomes of her citizens in such a way that "no guilty man may escape."

Let us take the case of Great Britain. Let us see what revenue would be produced there under the tax proposed in this bill. The total incomes of Great Britain in 1910 from all sources amounted to £1,000,000,000, in round numbers, or $5,000,000,000. Of that one billion, $400,000, or about 28 per cent, was income from real estate; $240,000,000, or 5 per cent, was income from Government securities, foreign and domestic; and $3,340,000,000, or 67 per cent, was income from business corporations, professions, employments, and so forth, the sort of income that this bill seeks to tax.

The figures are not available to show what deductions can be made in the incomes between $800 and $5,000 in relation to real estate, but they are available as relates to all other incomes in Great Britain. They show that the total income of persons having not less than $800 a year and not over $5,000 a year was $400,000,000. The total income of firms was $75,000,000; of officials, $5,000,000; and employees, $625,000,000. In addition to this sum of $105,000,000 we must also deduct the income from corporations having more than $5,000 a year. That amounts to $1,275,000,000, so that there is remaining, of incomes in Great Britain which would be subject to this tax, $960,000,000, on which this tax would raise a revenue of $9,600,000 a year. Adding the amount which could reasonably be expected from the remaining 33 per cent, including incomes from real estate and Government securities, we would have then a total sum upon which this tax could be assessed of $1,400,000,000, on which this tax would raise a total revenue of $14,000,000 a year. Can it be reasonably supposed that the

tax proposed in this bill will raise more than four times as much here as it would in Great Britain? Merely to state the proposition is to show its absurdity. Mr. Chairman, this $60,000,000 of revenue is a pipe dream. When we see in the colored supplements of the papers to-morrow pictures illustrating Little Nemo's adventures in Slumberland, we shall not see anything more absurd than these figures.

"The jabberwock," which, "with eyes of flame
Went whiffling through the tulgy wood and burbled as it came,"

was no more a figment of a vivid imagination than these $60,000,000 a year are. [Applause on the Republican side.]

Let us take another example of the utter farcicality of the estimates of the majority of the Committee on Ways and Means. If we are to assume that $6,000,000,000 a year is the income upon which this tax could be levied, we would have to assume that the number of individuals having an income of $10,000 a year was 1,200,000. Is there anyone that would not laugh if it was said seriously to him that there were 1,200,000 people in this country—one-ninetieth or more of our population—who have incomes of $10,000 a year each? We would have to assume that there are 133,000 people who have an income of over $50,000 a year; that there are 6,000 American citizens who have an income of over a million dollars a year, or that there were 600 persons in this country who had an income of $10,000,000 a year.

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

Mr. LONGWORTH. Yes.

Mr. POWERS. If under the terms of this bill it will not raise more revenue than $14,000,000, who is the bill going to hurt, if passed?

Mr. LONGWORTH. Mr. Chairman, I am sorry the gentleman does not apprehend the argument I am making a little better than that. I am not talking about who it is going to hurt. I am talking about whether it is going to help the country. I am arguing against the advisability of passing such legislation as this to make up a deficit in the revenues of $60,000,000 a year.

Mr. POWERS. I would like to ask another question, if the gentleman will yield?

Mr. LONGWORTH. I will tell the gentleman, though, whom it will hurt. It will hurt simply the active, energetic men of this country who by their brains and energy are making a livelihood for themselves and for their families. It will not hurt any single idle holder of idle wealth, whether Mr. Carnegie, Mr. Rockefeller, or Mr. Astor, or whoever he may be, who is living on the income of his invested capital. It will not hurt them, if that is what the gentleman wants to know.

Mr. POWERS. I am seeking information, and I would like to have the gentleman's reasons for failing to increase the excise tax from 1 per cent to 2 per cent. He has based his argument largely upon the proposition that a tax of 1 per cent is not sufficient to raise sufficient revenue to justify the bill. I would like to have some argument produced showing that the excise tax in itself is a wrong principle.

Mr. LONGWORTH. Mr. Chairman, I am coming to that later, if the gentleman will wait. I ask not to be interrupted any more for the present. We have proved, and we have proved beyond the shadow of a doubt, and nobody has denied it, and nobody is going to deny it, I think, that this bill will not, even if constitutional in every respect, raise over $20,000,000 a year. That is on the assumption that the Supreme Court would uphold the tax on every income that it assumes to impose. From that sum must be eliminated what will go through the loopholes of this bill, and there are many loopholes. I shall not take time to go into that question except to ask that gentlemen read the letter from the Commissioner of Internal Revenue, which is quoted on page 5 of the minority report, and which I append here. The tables to which Mr. Cabell refers are to be found in the minority report.

TREASURY DEPARTMENT,
Washington, March 9, 1912.

Hon. NICHOLAS LONGWORTH,
House of Representatives, Washington, D. C.

MY DEAR MR. LONGWORTH: Referring to our conversation this morning relative to the Democratic caucus bill extending the provisions of the excise-tax law to all individuals, firms, etc., engaged in business, I beg to state that I have read this bill with considerable care and great interest.

This office had its first information relative to the bill in the newspaper reports announcing its adoption, and I have made considerable efforts to locate any data based on which the receipts from the bill could be estimated. After making inquiry from every source that I could think of, I have reached the conclusion that there is no very comprehensive data in existence. I had certain persons who are experienced in work of this nature make estimates from the data obtainable as to the probable tax-producing properties of the bill, without raising any question as to probable exemptions, exceptions, defects in language, apparent opportunities afforded to evade the tax, etc. I inclose herein a memorandum giving a brief synopsis of these estimates. You will note that the largest amount believed possible to be collected under this measure is $26,500,000 a year. If the bill is adopted in its present language, this possible amount appears certain to be reduced very greatly; in my judgment, below $20,000,000 per annum.

My principal criticisms of the language of the bill would be that the definition of the word "person" is not sufficiently embracive; the language would appear to except trusts, trustees, and associations, and then, most important of all, it does not embrace families. Taken in connection with a later paragraph of the bill, which states that no person receiving less than $4,500 need make a return, this definition would permit a man to divide his income, unless it were in the shape of a salary or something which attached purely to himself personally, among all of the members of his family, each receiving less than $4,500, and no one of these members would be required to make a return. He himself then would only have to report what would be left over and would be allowed a deduction of $5,000 from that. I am of opinion that this would afford an open door through which probably 25 per cent of the tax, which would otherwise be collected, would slip out.

Again, it is provided that the question of tax liability, or liability to make a return, shall be determined by the deputy collector or collectors, and it would appear that a decision in favor of a taxpayer by a deputy collector would be binding and final. I am of opinion that any provision such as this would make any law incapable of satisfactory administration.

If the proposed measure is to be enacted into law, I am of opinion that provision should be made for each "person" liable thereunder to make the return at the close of the fiscal year of the business conducted by such person rather than at the close of the calendar year.

There are numbers of other matters in the bill of more or less importance that appear to be subject to criticism, but I am giving you only what I consider the most vital administrative propositions, not touching at all the many interesting and complicated legal questions involved in this proposed legislation.

With highest regards, I am,
Respectfully,
R. E. CABELL, Commissioner.

Mr. Chairman, I am not prepared to discuss, and I do not intend to discuss at any length, the constitutionality of this measure. I am not prepared to say it is unconstitutional in every respect, though I think a fair argument could be made to show that it is, but I do claim that so much of it as levies a tax, call it a business tax or by whatever other name you wish, upon the income derived from real estate or from invested capital is unconstitutional. The Zonne case, to which the gentleman from North Carolina [Mr. KITCHIN] referred, was a case where a corporation originally was chartered for the purpose of improving and holding real estate and erecting buildings thereon. Subsequently it leased the property to trustees and reserved merely the right to collect that income and distribute it among its stockholders.

Mr. LITTLETON. The lease ran for 130 years.

Mr. LONGWORTH. Yes; for 130 years. The court held that that corporation was not doing business in a way that would bring it under the provisions of the corporation-tax law. Without going at any length into this question I desire to refer to a case decided by the Supreme Court of Alabama, which is precisely in point. That is the case of State v. Anniston Rolling Mills (125 Ala., 121).

The rolling mill company was organized to manufacture and deal in iron products. It leased its plant to another corporation. It still collected rent, paid taxes, loaned money, and collected interest, and did certain other things looking to the preservation of its property. It was held by the court not to be liable to a license tax, upon the theory that it was not doing business, and the court said:

Not one of the several acts of the corporation done by it in the year 1897, as shown by the record, constituted a doing of the business or any part of the business for which it was created, and were incidents to the preservation of its property.

Mr. MADDEN. Would the lessees be liable for the tax in that case?

Mr. LONGWORTH. I do not see how they could be under this bill.

Mr. LITTLETON. That was an occupation tax by a license.

Mr. LONGWORTH. Yes. I quote it only as showing what a proper definition of the term "business" is. I do not think that anyone will claim that under this law the receipt of income from a ground rent would be taxable. Take a case where a man leases real estate perpetually, or for some stated period under a lease which provides that the lessee shall pay the taxes, assessments, and so forth. Will anyone claim that under this bill his income from the lease could be taxed? That is the kind of investment that many persons make when they retire from business. It is a form of investment which men leave to their families.

The income from this sort of investment would amount to many million dollars a year, and under this law such incomes would be absolutely exempt from taxation. So that if the courts should hold, as we think they undoubtedly would, that incomes from real estate and permanent investments can not be taxed under this bill, a large deduction would have to be made from even the comparatively paltry sum that any reasonable estimate will show its revenue-producing powers to be. The more carefully we examine the figures the more the revenues shrink. It is doubtful whether this bill, after being submitted to the

scrutiny of the courts, would yield as much as $15,000,000 a year, and it is not beyond the bounds of reasonable probability that the whole fabric might fall to the ground.

Mr. MANN. The gentleman speaks of income from real estate. Did not the Supreme Court hold in the rehearing in the Pollock case that the same rule was to be applied on income from real estate as income from personal property? At the rehearing they made no distinction.

Mr. LONGWORTH. The gentleman is correct.

Mr. MANN. The question would be in every case whether the person was transacting business.

Mr. LONGWORTH. If he was actually transacting business he would probably be taxed under this bill. If he was not transacting business he could not be taxed under this bill.

Mr. MANN. Under the corporation-tax case, if he is transacting business he might be taxed on his total income, whatever the sources of the income might be. The question, then, is, What is the transaction of business? Has the gentleman gone into that? Is collecting interest due him on a loan, business? Is living in a house, business? Is living on earth at all, business?

Mr. LONGWORTH. I put a case to a gentleman on the other side a few days ago who believed that the receipt of income from real estate was doing business. He claimed that the opening of an envelope that contained a check constituted a doing of business in real estate. I put to him this case, "Supposing a woman secures a divorce from her husband and is allowed under the decision of the court $10,000 a year alimony, is she to be compelled to pay a tax under this bill for doing business; and, if so, what business?" The answer was vague. [Laughter.]

Mr. SHACKLEFORD. Well, the question was vague. [Laughter.]

Mr. LONGWORTH. At the very best, and assuming that this bill is all that its proponents claim it is, so far as revenue producing is concerned, it is foreordained to failure. And while I dislike to say anything disagreeable or sarcastic about any measure brought in here by my colleagues of the majority of the Ways and Means Committee, whom I regard and respect most highly, I feel absolutely justified in saying that this bill is a total and absolute fraud.

Mr. CANNON. Yes; but will the gentleman allow me to say that, admitting that to be true——

Mr. LONGWORTH. And as the gentleman does admit, I hope.

Mr. CANNON. I think so. But take the other side of the House—the majority—do you not think that they think it is "a good enough Morgan until after the election"? [Laughter.]

Mr. LONGWORTH. Without answering the gentleman specifically, I think there is some politics in this bill.

Mr. SHACKLEFORD. Is it not likely to be "a good enough Morgan after the election" for some who vote against it?

Mr. LONGWORTH. I would be quite willing that the only issue between the two parties should be this bill. If it were, we would not see the gentleman from Missouri [Mr. SHACKLEFORD] here after the election.

Mr. ALEXANDER. I hope the gentleman will not conclude without answering the question asked by the gentleman from Kentucky [Mr. POWERS].

Mr. LONGWORTH. I am about to come to that feature of the discussion, which I think I can answer to the satisfaction of the gentleman from Missouri [Mr. ALEXANDER]. While the majority say this measure is not on its face an income tax, the whole burden of their argument is to prove that it is one in effect, and that it will lead up to a perhaps more carefully considered income-tax law so soon as the necessary number of States shall have ratified the constitutional amendment submitted to them by the last Congress.

But what kind of an income tax do they mean? For what sort of a law can this be regarded as a precedent? Is it the intention of the majority to pass a law which shall exempt from any share in the taxation 95 per cent of the American people and include in that exemption the rich, who live in idleness upon their income from invested property? Is it intended that only those who are using their energies and brains shall pay the tax and that the drones and the idlers go free?

Mr. SHACKLEFORD. Mr. Chairman, I would like to ask the gentleman if that is not precisely what the Payne-Aldrich bill did with reference to the corporations?

Mr. LONGWORTH. Not at all. There are very few corporations worth considering which have an income less than $5,000 a year, as the returns show; but there are thousands of people in this country who have incomes of less than $5,000 a year. Now, I am coming to that precise point in just a moment.

Mr. BARTLETT. Will you allow me a question?

Mr. LONGWORTH. The gentleman will pardon me for a moment. I am going to speak first about the precedent for the exemption of incomes, and then I will be glad to yield.

This bill exempts incomes of $5,000 a year and under. Gentlemen speak with praise of the income tax in Great Britain and of its fairness and effectiveness in that and other countries in producing revenue. There is not another civilized country in the world, Mr. Chairman, that exempts incomes of more than $1,000 a year.

In Australia the exemption is $1,000; in Great Britain, $800; in Germany, $750; in India, $666; in Denmark, $214; in Japan, $150; and in Switzerland, which many speak of as the ideal Republic, the exemption is $120 a year. In other words, it has been found just in those countries which have tried the income tax that a fair share of the population should be called upon to pay it. In my judgment, an exemption as high as $5,000 is essentially unrepublican and undemocratic. I believe that the mass of the people in any Republic, or a large portion of them at least, should have a direct interest in keeping down the expenditures of their Government. I do not mean to say that I believe that the small man should pay as much as the big man, even proportionately. I would tax those who receive large incomes at a higher rate than those who receive small incomes, but I would not exempt incomes of a reasonable size from all taxation whatever. In my judgment, an exemption of as high as $5,000 a year is essentially class legislation.

Mr. LITTLETON. I would like to ask a question for information. Did you find out how many corporations there were that did not report under the corporation act? I could not find out.

Mr. LONGWORTH. Under our corporation tax?

Mr. LITTLETON. Yes.

Mr. LONGWORTH. No; but I think it is believed that practically every corporation of any size made report. The total of reports last year showed an income of $3,336,000,000, if I rightly remember.

Mr. LITTLETON. They paid on that?

Mr. LONGWORTH. The tax collected was something over $29,000,000, showing that those not taxed were corporations that were exempt for one reason or another, either for holding real estate or having incomes less than $5,000. The amount was relatively insignificant.

But gentlemen say that a high exemption will be "popular." Of course, the higher you put the exemption, the more popular the tax will be.

Any tax is always popular with those who do not have to pay it, and it is unpopular in a certain sense with those who do have to pay it. But, following the logic of that argument, it would be wiser and more popular to exempt incomes of $10,000 a year, or $15,000 a year, and so on up. But that is not the kind of popularity that a statesman should seek to attain for an income tax or any other tax. The test should be not popularity, but fairness. I do not believe that the average American citizen objects to paying his fair share of the burden of supporting his Government. He does not ask to be entirely exempted. He simply asks to be fairly treated. He does not ask for charity; he asks for a square deal.

Now, there is another feature of this bill to which I have as serious objection as I have to the size of the exemption, and that is the quality of the exemption. I mean the proposition that energy and enterprise are to be taxed and that idleness is to go free. In many enlightened countries a substantial distinction is made between earned and unearned incomes. In Great Britain professional incomes, incomes that are earned by activity, pay a tax 25 per cent less than unearned incomes or incomes derived from invested property.

In Australia the difference is even greater. I find that in Australia the taxation on incomes derived from "personal exertions" is only one-half that on incomes derived from investments. That is a proper and just distinction, and should be made in any income tax law, in my judgment. The man who earns his income by the exercise of his brains or by the sweat of his brow is all the time exhausting his capital. In the nature of things his earning capacity is limited by the fund of energy upon which he must draw, and at some time or other that fund must become depleted and eventually entirely exhausted. On the other hand, the man whose income is derived from property, comes to him without any energy or activity on his part, and does not impair his capital, which in some cases not only does not decrease, but increases in value. It is not fair that he should not pay more from his annual income than his neighbor, whose earning power may be soon exhausted.

This bill adopts precisely the opposite policy. Not only does it not distinguish in favor of the earner, as against the idler, but it actually penalizes him. It taxes the earner and lets the

idler go free. Under this bill not a cent of tax could be collected from a man who has inherited property and lives on the income derived from it. Not a cent of tax could be collected from the man who has retired from business and is living on the income from his invested gains.

What can be said in favor of a tax law which lets the Rockefellers and the Carnegies and the Astors go free, but which taxes the man who in the full maturity of his powers is devoting his best energies to the service of his Government, like, for instance, the honored Speaker of this House; which taxes the men who are devoting their lives to the preservation of the integrity and honor of their country, like the officers of the Army and Navy; which taxes the lawyer and the physician and the clergyman and every man who is earning his bread by his brains or the sweat of his brow?

I see no justification for the passage, either as a revenue measure or for any other purpose, of a law which makes such unjust discriminations as does this bill.

I am opposed to this bill, and I am opposed to any proposition for which it might be regarded as a legitimate precedent. If we are to have an income tax, let us have one that is modeled——

The CHAIRMAN. The time of the gentleman has expired.

Mr. PAYNE. Mr. Chairman, I yield the gentleman five minutes' additional time.

The CHAIRMAN. The gentleman from Ohio [Mr. LONGWORTH] is recognized for five minutes more.

Mr. LONGWORTH. If we are to have an income tax, Mr. Chairman, let us have one that is modeled on the laws of other countries, where it is an integral part of their revenue system, and where it has been shown by experience to be fair and just. Let us in the meantime oppose such measures as this, invented upon the spur of the moment, brought in for political reasons only, evidently not effective to carry out the purposes for which it was intended, and which from any point of view is unjust, unfair, and inequitable. [Applause on the Republican side.]

Mr. Chairman, I yield back the balance of my time, and ask unanimous consent to be allowed to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Ohio [Mr. LONGWORTH] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. UNDERWOOD. Mr. Chairman, I yield 20 minutes to the gentleman from Missouri [Mr. DICKINSON].

Mr. DICKINSON. Mr. Chairman, it was not my purpose to speak so early on this bill, but opportunity having been given me by the majority leader [Mr. UNDERWOOD] to speak this afternoon rather than later in the debate, I desire to say that I am heartily in favor of this bill, which seeks "to extend the special excise tax now levied with respect to doing business by corporations to persons, so that every person, firm, or copartnership residing in the United States, any Territory thereof, or in Alaska or the District of Columbia shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such person, equivalent to 1 per cent upon the entire net income over and above $5,000 received by such person from all sources during each year," and I hope that the bill will be permitted to become a law and that it will stand the test in the courts, and that before very long the general income tax amendment will be adopted and a general income tax become a part of the law of the land.

In orderly society, secured by well-organized government and just laws, peculiar benefits come to those possessed of large means and incomes flowing therefrom. The peculiar benefits that government secures to wealth are in addition to those benefits that are common to all the people, who are supposed to enjoy under the law equal protection as to life, liberty, and pursuit of happiness. Great property interests are especially favored, and a large proportion of the expenses of government is for the protection of property owned and controlled by the wealthier classes, who invest their surplus means at home and abroad, understanding that the strong arm of the Government will be used to protect their property interests and investments wherever situate, and it is not unreasonable to insist that a fair share of the burdens of government shall be borne by the wealth of the country, and a moderate tax levied upon large incomes is both fair and just, and should be paid without complaint by those who reap and enjoy the greatest benefits of government.

This country stands almost alone among the so-called civilized nations in failing to tax incomes for the support of the Government. In the year 1908—and I have not before me later figures—the amount of income tax collected was, in round numbers, $413,000,000. In this respect England stands at the head of the list with $165,000,000. Other countries stood as follows:

Prussia	$88,000,000
Italy	50,000,000
Spain	18,000,000
Japan	13,800,000
Saxony	12,275,000
Austria	12,000,000
Holland, India, Norway, each nearly	7,000,000

England reached the sum of $180,000,000. However, it seems the per cent was greater, and levied upon sums exceeding a smaller amount, than named in this bill—so moderate in its exactions that none ought to complain.

In 1866 corporations paid more than one-eighth of the whole income tax, under the last existing income-tax law of the United States, which was repealed nearly 40 years ago.

In 1910 a 1 per cent tax on corporations yielded $27,000,000.

If the proportion between individual and corporate wealth Later, the amount of revenues raised by tax on incomes in were substantially the same now as then, a Federal income tax of 1 per cent might be expected to yield $200,000,000. Yet I doubt the proportion being the same in 1910 and now as in 1866, corporations having multiplied more rapidly in later years.

How enormous is the wealth of this country, and untaxed for support of the Federal Government, and more than half of this wealth owned by a very small per cent of the population of the country enjoying large incomes free from taxation for Federal purposes.

The advocates of a general income tax have hoped that the day was not far distant when three-fourths of the States of the Union would ratify the proposed income-tax resolution, thereby amending the Constitution of the United States so that a law might be enacted by Congress whereby a general income tax might become the law of the land and whereby the burdens of taxation would be more evenly distributed. With a changed attitude on the part of the President toward income-tax legislation in time of peace, the adoption by the States of the income-tax amendment is discouraged by the very utterances of the President, finding active response among the leaders of his party in the several States, even going so far as to attempt to reverse the prior action of the State of New York, the wealthiest of all the States, and thereby, if successful, to prevent, possibly, any further progress toward the amendment of the Constitution of the United States for income-tax purposes.

I will quote a press dispatch:

RESCINDS INCOME-TAX VOTE—NEW YORK ASSEMBLY NOW REVERSES APPROVAL OF A YEAR AGO.

ALBANY, N. Y., *March 18.*

The assembly to-day, by a vote of 85 to 58, passed the Hinman bill, rescinding New York State's action of last year advocating a Federal income tax.

Arguments closely followed those of a year ago, when the legislature went on record as favoring the proposed constitutional amendment.

It takes three-fourths of the States of the Union, acting through their legislatures, to amend the Federal Constitution. Progress had so far been made in the States toward the adoption of this income-tax amendment that it required affirmative action of only 5 more States prior to the admission of Arizona and New Mexico into the Union of States, and by reason of their admission into the Union at this time it will now require 6 more States to ratify this amendment before it can be adopted as a part of the Constitution of the United States. Prior to their admission there were 46 States, and it was necessary that 35 States adopt the amendment in order to have the necessary three-fourths. The legislatures of 30 States have acted affirmatively. Sixteen States had either rejected the amendment or had failed to act. Mexico and Arizona admitted into the Union increases the number of States to 48 and increases the number of States which have not adopted the amendment to 18. Thirty-six States now constitute three-fourths of all the States. If 6 of these 18 States shall ratify the amendment, it will make the necessary three-fourths of 48, or 36 to 12.

The adoption of this constitutional amendment would hasten the beginning of a new fiscal policy—a policy of gradual reduction of tariff taxation made possible by resorting to income taxation. It will end the high protective-tariff system of this country and give to the people lower tariff laws and ultimately a tariff for revenue only—the goal of Democratic effort—and the country will readily understand why the highly protected interests seek to defeat income-tax legislation, and why Republican advocates of the high protection policy join hands with special interests in their efforts to postpone the day of the adoption of a general income-tax law as a permanent part of our fiscal policy.

The President of the United States, by his more recent utterances, lends his great voice and the influence of his administration to the delay in the adoption of this constitutional amend-

ment. Such is the action of those who control the policies of the Republican Party. A large standing Army on land, and a fleet of monster battlements plow the waters of the seas, all in time of peace, costing annually hundreds of millions of dollars, to protect the property and wealth of those who would swell the annual appropriations for their protection, and yet not willing to bear a reasonable income tax in time of peace—this Republic standing alone of the civilized nations of the world in avoiding the levying an income tax.

We are preparing for war in time of peace, and why should not this annual burden of preparation for war be borne in part by those who admittedly should help bear the burden in time of peace?

The Democratic Party, now in control of the House of Representatives, wearied with long waiting, anxious to hasten the day for lower taxation, anxious to make an honest effort to balance the weight of taxation on consumers of the country, who have heretofore borne all the burdens of taxation, seeks now to so extend the present corporation tax to persons, firms, and copartnerships that there may shortly be raised revenue from large incomes, while at the same time an effort is made to give cheaper sugar to all consumers of this great necessity that enters into the daily consumption of every household in the land. And this income tax should not be opposed as class legislation, but rather indorsed as an effort to equalize the burdens of Government.

I have called attention to the recent action of the New York Assembly, seeking to reverse the prior action of the legislature of that State in 1911 in adopting the income-tax amendment. I desire to say in this connection that when the State of New York, in 1911, ratified that amendment, the legislature was Democratic, and that the present assembly, or lower house, of the legislature of that State is Republican, and one of its first acts was the introduction of a resolution seeking to rescind the former action by a Democratic legislature. It has been understood that a vote against ratification does not preclude a ratification at a later date, but that a vote in favor of ratification is final and can not be recalled or rescinded; and that there is no limit upon the period within which an amendment to the Constitution may be ratified, and that it is beyond the power of Congress to recall an amendment which has once been submitted to the States.

As against this doctrine that a vote in favor of ratification is final, and can not be recalled or rescinded, in January, 1912, a concurrent resolution rescinding the action of the New York Legislature of 1911 in ratifying the proposed income-tax amendment to the Federal Constitution was introduced by Assemblyman Hinman, chairman of the judiciary committee. It asked the Federal Secretary of State to return the copy of last year's resolution now on file in Washington, and recites, that as the amendment has not been ratified by three-fourths of the States, it has not become part of the Constitution. The resolution declares there is no emergency calling for the immediate passage of the proposed amendment. Mr. Hinman says that an investigation of precedents for rescinding of action reveals the fact that there has never been a real test in court.

On March 6 the Hinman resolution rescinding New York State's approval of the Federal income-tax resolution was reported favorably by the assembly judiciary committee, and Mr. Hinman issued a statement saying that there was no precedent against rescinding which can be said to have determined that a State has no such right—and further says Congress can not decide this question, nor can the secretary of state, by the adoption of a resolution, declare that New York has irrevocably given its assent or by any kind of promulgation, that it is not a political question but a judicial one for the court. Such is the recent utterance of this Republican leader in the Republican Assembly of the State of New York. And on March 13—three days ago—the Hinman resolution passed the assembly by a vote of 85 to 58.

Mr. BARTLETT. Will my friend permit an interruption?

Mr. DICKINSON. Yes.

Mr. BARTLETT. The gentleman doubtless recalls the historical fact that when the fourteenth and fifteenth amendments were up for ratification by the States, the States of Ohio and New Jersey ratified the amendments and then withdrew that ratification, and the Secretary of State and Congress refused to recognize such later action of the legislatures of the two States.

Mr. DICKINSON. Mr. Chairman, I am familiar in part with that history. I recollect when I came here, nearly two years ago, being over in the other body and listening to a distinguished Senator, now an ex-Senator, from Mississippi, Senator Money, in an address before the Senate, in which he referred to that fact while discussing a joint resolution directing the Attorney General to submit to the Supreme Court all information available bearing on the validity of the fourteenth amendment to the Constitution of the United States, seeking to test whether the fourteenth amendment was adopted according to the requirements of the Constitution and whether or not this is a judicial question. By the action of the New York Assembly they seek to bring that question anew before the courts of the land for the purpose of taking New York out of the list of those States that have ratified the income-tax amendment.

So, while the party of which I am an humble member is seeking, with a percentage of the Republicans of the country, to press forward the enactment of an income-tax amendment and to secure the ratification of this amendment by three-fourths of the States of this Union, an effort is being made in at least one State, the wealthiest of all, to recede from that position, thereby, if successful, retarding and delaying the time, if not preventing the time from ever coming, when an income-tax-amendment resolution shall become a part of the fundamental law of the land.

There are to-day in this country two great contending forces, the masses on the one hand, the overwhelming majority of the people, who are pressing forward the thought that an income tax ought to be a part of the law of this Republic, as in all other of the most civilized countries of the world; but the thought has been in my mind, and doubtless in the minds of some of you at least, that the time, perhaps, is far distant when three-fourths of the States possibly will ratify this amendment to the end that it will become a part of the Constitution of the United States. When they do, then litigation will come, and the question raised in New York may be before the courts for judicial determination. The question is even suggested in a letter that I received this morning from the Secretary of State, when I inquired as to the number of States and the names of those that had ratified this amendment. I have here his letter naming 29 States, out of which the State of Kentucky is left, on the idea that there is some doubt about its having legally adopted it.

Mr. WITHERSPOON. Kentucky or New York?

Mr. DICKINSON. Kentucky. The question arose, with which this House is somewhat familiar, that in the State of Arkansas the governor saw fit to veto the action of the legislature; though I will say that in the list furnished me by the Secretary of State the State of Arkansas is included as one of the 29 States. I do not believe that any lawyer in this body has any reasonable doubt but that the action of the legislature is the final and only necessary action required for the purpose of ratifying the income-tax amendment or other amendment to the Constitution and not subject to the veto of the governor.

If the President of these United States has less interest in the adoption of an income-tax amendment to the Constitution than he had prior to his election, it is a source of regret; but it is significant that only a few months ago he declared that he does not favor the enactment of an income tax except for raising revenue in time of war; that he is opposed to the collection of an income tax in time of peace. In this position the President is not in accord with the majority sentiment of the country.

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

Mr. DICKINSON. I will.

Mr. TOWNER. I should like to ask the gentleman to give his idea as to what would likely be the effect upon the States that have not yet ratified the constitutional amendment should Congress pass the law which is now under consideration?

Mr. DICKINSON. What would be the legal effect?

Mr. TOWNER. No; what would be the likely effect on the States that have not yet acted?

Mr. DICKINSON. I was about to reach that question. I thank the gentleman for asking it. I was about to congratulate the majority members of the Ways and Means Committee for having brought forward this measure at this time when the country is becoming wearied by reason of the fact that the general income-tax amendment proposition is lagging because of inaction on the part of some of the States. [Applause on the Democratic side.] I have reached the conclusion in my own mind that the action of this House and of this Congress in pressing forward as far as they can, by reason of the limitations resulting from the decision of the Supreme Court, and attempting to extend the excise tax to persons as well as corporations, will renew again the interest of all the people favoring a general income tax, and will tend to quicken action in the several States that have not yet acted, to the end that a sufficient number of them will more speedily, through their legislatures, ratify this amendment, so that three-fourths will ratify more quickly than if this Congress showed no interest in pressing forward in favor of levying taxes upon incomes. [Applause on the Democratic side.]

I believe that the action of Congress on this bill will quicken the interest of the people everywhere, and a renewed demand will be made for an early ratification of the general income-tax amendment, so that the large incomes from every source may be reached, some of which can not be reached by this proposed law, by reason of the decision of the Supreme Court of the United States declaring unconstitutional a general income-tax law.

Mr. TOWNER. If the gentleman will permit me——

Mr. DICKINSON. I will yield to the gentleman.

Mr. TOWNER. Does not the gentleman think that really encouraging progress is being made when he realizes that during the year 1910 nine States ratified, and during the year 1911 20 or 21 more States have ratified that constitutional amendment? Does not the gentleman think it is commendable progress in that direction?

Mr. DICKINSON. Yes; we are making progress; but I have always believed that the progress toward the end would be so slow, the opposition in several States would be so strong, that it might take a longer time to gain the last half dozen States than it did to gain the 30 that have ratified it. I have believed that by reason of the opposition of the great interests, and those in high authority losing their interest in favor of the enactment of the proposed income-tax amendment, that the delay would be increased. I want to say here, from the history of this present law now upon the statute books, that it was understood that the corporation-tax law was brought forward and enacted into law primarily for the purpose of defeating the general income-tax law sought by Democrats to be enacted at that time, and I shall print with my remarks a partial history of the passage of said law.

Such were the utterances of a distinguished leader in the Senate of the United States when this was being discussed; such was the frank admission of Republican leaders at that time.

Mr. BOWMAN. But this bill was not brought forward for that purpose?

Mr. DICKINSON. I am talking about the law now on the statute books, the corporation-tax law, which we are seeking to extend to persons. A law passed as a temporary measure, with the hope of its advocates that it would be adandoned after a brief while, though stated by others at the time that if this corporation-tax law went on the statute books, it was there to stay. The action of the Democratic Party in this House emphasizes the thought that it will not be abandoned, but that the law will be extended by levying a tax upon the net incomes over $5,000 of persons, as well as corporations, and remain as the law, at least, until a general income tax can be enacted. We are pressing forward here and before the country the idea that the Democratic Party is in favor of taxing large incomes, and this legislation is brought forward now because a general income-tax law has not been ratified by a sufficient number of States, and the tax sought to be taken off of sugar is sought to be put on incomes—taken off of the stomachs of the people and placed on large incomes, and easily paid.

Mr. CAMPBELL. Will the gentleman yield?

Mr. DICKINSON. I do yield.

Mr. CAMPBELL. Does the gentleman find any opposition in his State to the levying of an income tax, either upon corporations or individuals, by the General Government?

Mr. DICKINSON. I suppose there is opposition in every State, but my views are so well known on the subject of income taxes that no one has seen fit to express this opposition to me. There are always those who do not want to pay taxes. Nobody is anxious to pay taxes. Those enjoying large incomes, as a rule, doubtless prefer exemption from taxation and that the burden be upon consumers, but those who enjoy the protection of the Government and just laws should be willing to pay reasonable taxes, whether by reason of the property they own or by reason of protection of life and liberty.

Mr. CAMPBELL. I have had much objection along this line, if the gentleman will permit me. There is a great demand in our State for improvement in roads and for pensions and all that sort of thing, and all sources of taxation are being resorted to that are possible. They have protested against the corporation tax and against our appropriating an income tax. They want to levy that income tax for the State as a source of revenue.

Mr. DICKINSON. That may be true in a measure in the State of Kansas, but I do not believe there is very much difference on this subject between your State and mine. Both Missouri and Kansas have ratified the general income-tax amendment, and I believe that the large majority of the people in both States favor the levying of an income tax upon both corporations and persons by the General Government.

Those who seek to avoid a Federal income tax by appealing to the States to reserve to themselves the exclusive right of income taxation know full well how easily those enjoying large incomes can escape State taxation, and know that the Federal Government would have a distinct advantage in that, the tax being uniform throughout the United States, there would be no escape from it by moving from one State to another, and a collection of it be more thorough and efficient; and so much of the business of importance transcends States lines that collection from such business would be more effective by the General Government, which is now compelled to rely almost exclusively upon customs and excises for its revenues. It needs income taxes if it would reduce excessive custom duties and more equally distribute the burdens of taxation. The appeal to the States is a selfish appeal by those seeking to avoid all taxation of such wealth as they can place beyond the reach of the tax collector.

The Democratic Party favors a general income-tax law, as shown by its national platform and by the record of its representatives here and elsewhere.

I have spoken of the changed attitude of President Taft regarding a general income tax, which logically would interfere with high-tariff laws. When Mr. Taft accepted the nomination for President, he declared his belief that an income tax properly drawn would be declared constitutional by the Supreme Court of the United States and that in his judgment an amendment to the Constitution for an income tax was not necessary.

We sincerely hope that this bill, proposed by the Democratic majority of the Ways and Means Committee and indorsed by the Democratic caucus, will be passed by so large a majority vote in both Houses of the Congress that the President will sign the bill, so that it may become a law.

In the magazine known as The Outlook, in its issue of December 2, 1911, appears an authorized interview with President Taft, given out at the Virginia Hot Springs, where he had gone for a rest after his notable tour of the West, lasting "49 days, with 306 speeches to his credit." In this interview President Taft was asked the following question:

> Now that you have launched your project for a constitutional amendment, you probably have in mind some particular form of general income tax to recommend to Congress when it is free to act?

To which question he replied:

> In a way; yes. I believe, on principle, in a general income tax. The only good arguments against it are that it is inquisitorial and that it offers a temptation to perjury. But I would not resort to the ordinary income tax except in an emergency like war, when I would have it graduated, so that those citizens who had most at stake should bear a correspondingly large share of the burden of the common defense. In time of peace I would avoid temptation to perjury and would confine the Government to taxes that do not involve such inquisitorial methods in their collection.

Fresh in the recollection of the American public is another and far different utterance by Mr. Taft when asking for the confidence and suffrages of the American people in the presidential campaign of 1908. After his nomination for President by the Republican national convention, June 18, 1908, which made no mention of the income tax in its platform, the Democratic national convention, held at Denver in July, 1908, adopted the following plank:

> We favor an income tax as part of our revenue system, and we urge the submission of a constitutional amendment specifically authorizing Congress to levy and collect a tax upon individual and corporate incomes, to the end that wealth may bear its proportionate share of the burdens of the Federal Government.

In his speech of acceptance at Cincinnati, July 28, 1908, President Taft expressed the same idea as follows:

> The Democratic platform demands two constitutional amendments, one providing for an income tax and the other for an election of Senators by the people. In my judgment an amendment to the Constitution for an income tax is not necessary. I believe that an income tax, when the protective system of customs shall not furnish income enough for governmental needs, can and should be devised which, under the decisions of the Supreme Court, will conform to the Constitution.

This was his utterance before election, speaking to the American people.

In his inaugural address, however, President Taft made the following recommendation:

> Should it be impossible to do so (secure sufficient revenue) from import duties, new kinds of taxation must be adopted, and among these I recommend a graduated inheritance tax as correct in principle and as certain and easy of collection.

It was in accordance with this recommendation that the Ways and Means Committee reported an inheritance-tax law as part of the Payne tariff bill, and this was subsequently passed by the House and sent to the Senate for concurrence.

On June 16, 1909, President Taft transmitted a special message to Congress from which the following is an extract:

I recommend a graduated-inheritance tax as correct in principle and as certain and easy of collection. The House of Representatives has adopted the suggestion and has provided in the bill it passed for the collection of such a tax. In the Senate the action of its Finance Committee and the course of debate indicate that it may not agree to this provision, and it is now proposed to make up the deficit by the imposition of a general-income tax in form and substance of almost exactly the same character as that which, in the case of Pollock v. the Farmers' Loan & Trust Co. (157 U. S., 429), was held by the Supreme Court to be a direct tax, and therefore not within the power of the General Government to impose unless apportioned among the States according to their population.

The decision in the Pollock case left power in the National Government to levy an excise tax which accomplished the same purpose as a corporation income tax, but is free from certain objections urged to the proposed income-tax measure. I therefore recommend an amendment to the tariff bill imposing upon all corporations and joint-stock companies for profit, except national banks (otherwise taxed), savings banks, and building and loan associations, an excise tax measured by 2 per cent on the net income of such corporations. This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own stock.

As a result of this special message the present corporation-tax law was enacted, which provides for a tax rate of 1 per cent levied on the net income of certain corporations, as follows:

An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, provided that certain corporations, joint-stock companies, and insurance companies should be subject to pay annually a special excise tax with respect to carrying on or doing business by such corporation, joint-stock company or association, or insurance company equivalent to 1 per cent upon the entire net income over and above $5,000 received by it from all sources during such year.

I desire and ask leave to insert here as a part of my remarks an extract from Kennan's work on Income Taxation, commencing on page 279 and ending on page 282 of said work:

Early in the history of the Payne tariff bill Senator BAILEY, of Texas, introduced an amendment which provided for a general income tax. This amendment followed very closely the income-tax law of 1894, except that it provided for a fixed rate of 3 per cent on all incomes in excess of $5,000, and contained special provisions for a corporation tax, an inheritance tax, and a tax on gifts, devises, and bequests.

At the same time Senator CUMMINS, of Iowa, presented an amendment proposing a graduated tax upon all incomes over $5,000 a year. The scale of rates proposed by him was as follows:

On incomes not exceeding $10,000, 2 per cent.
On incomes not exceeding $20,000, 2½ per cent.
On incomes not exceeding $40,000, 3 per cent.
On incomes not exceeding $60,000, 3½ per cent.
On incomes not exceeding $80,000, 4 per cent.
On incomes not exceeding $100,000, 5 per cent.
On incomes of more than $100,000, 6 per cent.

These two amendments were eventually consolidated, mainly in the form of the Bailey bill, and strenuous efforts were made to secure the adoption of the "Bailey-Cummins amendment" before proceeding to revise the tariff. It was urged that if there was a prospect of raising $150,000,000 or $200,000,000 by a tax on incomes much larger reductions could be made in the tariff schedules. The Republican leaders, however, took alarm at this plan as involving a menace to the whole protective system, and succeeded in postponing action on the income-tax amendments until the revision of the tariff should be completed and the amount of the resulting deficit definitely known.

The position taken by the administration forces of the Senate is shown by the following colloquy which occurred June 29, 1909, between Senator Clay, of Georgia, and Senator Aldrich, of Rhode Island:

"Mr. CLAY. I want to ask the Senator a question. If we are to raise *$50,000,000 per year by a tax on corporation dividends*, does the Senator think that such a tax is a vicious assault upon the protective system; and, second, if this bill as it stands will produce enough revenue to support the Government and we adopt the corporation tax raising $50,000,000, does not the Senator think we ought to take up some of the other schedules and reduce the duty in proportion to the amount that we raise by the corporation tax?

"Mr. ALDRICH. Does the Senator from Georgia want an answer?

"Mr. CLAY. I would not have asked the question if I did not.

"Mr. ALDRICH. I shall vote for the corporation tax as a means to defeat the income tax.

"Mr. CLAY. I think that is an honest statement.

"Mr. ALDRICH. I will be perfectly frank with the Senator in that respect. I shall vote for it for another reason. The statement which I made shows a deficit for this year and for next year. This year I estimated $69,000,000. It will be $60,000,000. And next year I estimate a deficit of $45,000,000. I am willing that that deficit shall be taken care of by a corporation tax. That corporation tax, however, at the end of two years, if my estimate should be correct, should be reduced to a nominal amount or repealed. It can be reduced to a nominal amount, and the feature of the corporation tax that commends it to many Senators and a great many other people is that the corporation tax, if it is adopted, will certainly be very largely reduced, if not repealed at the end of two years.

"So I am willing to accept a proposition of this kind for the purpose of avoiding what to my mind is a great evil and the imposition of a tax in time of peace when there is no emergency, a tax which is sure in the end to destroy the protective system."

So you will understand that the corporation-tax law was brought forward and enacted into law primarily for the purpose of defeating a general income tax, and President Taft readily assented to this proposition, and then only to be abandoned after a brief while, the main purpose being to do nothing that would interfere with high tariff laws.

A different view as to the probable permanency of the law was entertained by Senator Flint of California, who said:

"If the amendment is adopted by Congress it will remain permanently on the statute books until such time as the people of this country, through their legislatures, shall ratify the constitutional amendment, and then there will be added to it an income tax."

Senator ROOT of New York, in his speech advocating the passage of the corporation-tax amendment, expressed himself as follows:

"Gentlemen may say I am for the corporation tax to beat the income tax. I care not. I am for the corporation tax because I think it is better policy, better patriotism, higher wisdom than the general income tax at this time and under these circumstances. I wish to beat the income-tax provision because I think it is unwise, and I wish to pass the corporation-tax provision because I think it is wise."

These extracts will, perhaps, suffice to show that the corporation tax was not proposed and passed as an important and desirable addition to our fiscal system; nor was any attempt made to justify it from an economic or scientific standpoint. The avowed purpose of its advocates was to defeat the general income tax and incidentally to raise money to meet a temporary deficiency. This was fully understood by the Democrats, but they were in a position where they could not oppose the bill without seeming to favor the corporations and to be acting in opposition to an income-tax law. When the vote was taken on Senator BAILEY'S motion to substitute the income-tax amendment for the corporation-tax law there were 28 yeas and 47 nays, 17 not voting. There were only 5 Republicans, namely, Senators BORAH, BRISTOW, CLAPP, CUMMINS, and LA FOLLETTE, who voted for the income tax and no Democrats who voted against it.

Review of Reviews (vol. 40, p. 136, Aug. 1, 1910), referring to the corporation-tax law, says:

Its coming into being is one of the most remarkable of recent legislative events. It was not discussed during the campaign; it was not mentioned in President Taft's inaugural; it was not proposed in the compact and deliberate program laid down by the President in his message at the opening of the special session, nor was it brought forward as any part of the pending revenue measure by any Member of Congress.

I desire to insert here another quotation, taken from LA FOLLETTE, is my recollection:

During the campaign the President had said that "in my judgment *an amendment to the Constitution for an income tax is not necessary.* I believe that an income tax * * * can and should be devised which, under the decisions of the Supreme Court, will conform to the Constitution." An amendment to the tariff bill providing for such an income tax was prepared and approved by the best constitutional lawyers in both parties. In a recent authorized interview the President said:

"There was strong pressure from the Democrats and some of the Republicans, including all of the 'insurgents,' for the revival of the old income tax on the principle that the personnel of the Supreme Court had been changed since its decision that the act of 1894 was unconstitutional. * * * I have always been in favor of an income-tax-laying power, because it may some time be needed to save the Nation, but I did not think this the proper way to secure it, having a due regard for the prestige of the Supreme Court. * * * I did not wish to see it placed in the position of reversing itself as long as there was another way of reaching the desired end by a constitutional amendment." Senator Aldrich objected to the income tax and joined with the President in substituting for it the corporation tax. The President reversed himself on the income tax.

The constitutional amendment submitted is as follows:

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

And it has been ratified by 30 States.

When the income-tax amendment was first presented to the New York Legislature, ratification by the assembly was defeated by a close vote, and one of the explanations offered against its adoption was:

The reason the amendment failed was because a majority of the assemblymen were unwilling to have the great wealth of the State of New York taxed *for the benefit of the South and West*, whose Congressmen are in the majority and whose people would bear but little of the burden.

In the State of Virginia where ratification failed in the house, as charged by reason of the opposition of the speaker, it was claimed by the speaker that the proposed amendment—

is a voluntary invitation to the Federal Government to invade and occupy the innermost citadel of what remains of the reserved rights of the States.

In the State of Louisiana the income-tax amendment has not been ratified, though the lower house on July 2, 1910, by a vote of 77 to 31 voted for ratification. Gov. Sanders opposed the amendment, and it failed to pass the senate, and in his race before the people for United States Senator that fact was used against him and he was defeated.

High protective laws are doomed, and the growth of sentiment in favor of income taxation will compel the enactment of income-tax laws. It is said that no foreign country which has adopted an income tax within the past 25 years has seen fit to abandon it. It was the failure of President Taft to make good his pledges for tariff reduction, his failure to use his influence in behalf of an honest tariff revision, his surrender to the high-tariff interests, and his indorsement of the Payne-Aldrich tariff bill that helped to weaken him before the country and to bring defeat to his party in 1910.

It has very recently been charged in the opposition Republican press that an income-tax measure would have been written into the tariff of 1909 but for the President's combination with the Aldrich-Cannon forces to prevent it, as a result of which the income-tax was kept out of the law and the corporation tax substituted, the Democrats with some insurgents

trying to put an income-tax amendment onto the bill, as shown earlier in my remarks, and thereby prevented a general income-tax measure being put up again to the Supreme Court, for the reasons heretofore stated.

The income tax, which had been held constitutional by the Supreme Court for a hundred years, by a sudden change of vote by one judge was held unconstitutional, nullified, and set at naught though it had passed by a nearly unanimous vote of both Houses of Congress, and had been approved by the President and voiced the will of the people. The decision was by a divided court of five to four. This decision, brought about by the vote of one judge changing his opinion, the four dissenting judges have denounced it in vigorous language, excerpts from which I will here insert.

Mr. Justice Harlan said:

This decision may well excite the gravest apprehension—it may provoke a contest in this country from which the American people would have been spared if the court had not overturned its former adjudications and had adhered to the principles of taxation under which our Government has always been administered. It can not be regarded otherwise than as a disaster to the country.

And, concluding, says:

If the decision of the majority had stricken down all the income-tax sections, either because of unauthorized exemptions or because of defects that could have been remedied by subsequent legislation, the result would not have been one to cause anxiety or regret; for, in such a case, Congress could have enacted a new statute that would not have been liable to constitutional objections. But the serious aspect of the present decision is that by a new interpretation of the Constitution it so ties the hands of the legislative branch of the Government that without an amendment of that instrument, or unless this court at some future time should return to the old theory of the Constitution, Congress can not subject to taxation—however great the needs or pressing the necessities of the Government—either the invested personal property of the country, bonds, stocks, and investments of all kinds, or the income arising from the renting of real estate, or from the yield of personal property, except by the grossly unequal and unjust rule of apportionment among the States. Thus, undue and disproportioned burdens are placed upon the many, while the few, safely intrenched behind the rule of apportionment among the States on the basis of numbers, are permitted to evade their share of responsibility for the support of the Government ordained for the protection of the rights of all.

I can not assent to an interpretation of the Constitution that impairs and cripples the just powers of the National Government in the essential matter of taxation and at the same time discriminates against the greater part of the people of our country.

The practical effect of the decision to-day is to give to certain kinds of property a position of favoritism and advantage inconsistent with the fundamental principles of our social organization, and to invest them with power and influence that may be perilous to that portion of the American people upon whom rests the larger part of the burdens of the Government, and who ought not to be subjected to the dominion of aggregated wealth any more than the property of the country should be at the mercy of the lawless.

Mr. Justice Brown concluded his dissenting opinion in the following language:

It is difficult to overestimate the importance of these cases. I certainly can not overstate the regret I feel at the disposition made of them by the court. It is never a light thing to set aside the deliberate will of the legislature, and in my opinion it should never be done except upon the clearest proof of its conflict with the fundamental law. Respect for the Constitution will not be inspired by a narrow and technical construction which shall limit or impair the necessary powers of Congress. Did the reversal of these cases involve merely the striking down of the inequitable features of this law, or even the whole law, for its want of uniformity, the consequences would be less serious; but as it implies a declaration that every income tax must be laid according to the rule of apportionment, the decision involves nothing less than a surrender of the taxing power to the moneyed class. By resuscitating an argument that was exploded in the Hylton case, and has lain practically dormant for a hundred years, it is made to do duty in nullifying, not this law alone, but every similar law that is not based upon an impossible theory of apportionment. Even the specter of socialism is conjured up to frighten Congress from laying taxes upon the people in proportion to their ability to pay them. It is certainly a strange commentary upon the Constitution of the United States and upon a democratic government that Congress has no power to lay a tax which is one of the main sources of revenue of nearly every civilized state. It is a confession of feebleness in which I find myself wholly unable to join.

While I have no doubt that Congress will find some means of surmounting the present crisis, my fear is that in some moment of national peril this decision will rise up to frustrate its will and paralyze its arm. I hope it may not prove the first step toward the submergence of the liberties of the people in a sordid despotism of wealth.

As I can not escape the conviction that the decision of the court in this great case is fraught with immeasurable danger to the future of the country and that it approaches the proportions of a national calamity, I feel it a duty to enter my protest against it.

Mr. Justice Jackson, in dissenting, concludes as follows:

The practical operation of the decision is not only to disregard the great principles of equality in taxation, but the further principle that in the imposition of taxes for the benefit of the Government the burdens thereof should be imposed upon those having most ability to bear them. This decision, in effect, works out a directly opposite result in relieving the citizens having the greater ability, while the burdens of taxation are made to fall most heavily and oppressively upon those having the least ability. It lightens the burden upon the larger number in some States subject to the tax and places it most unequally and disproportionately on the smaller number in other States. Considered in all its bearings, this decision is, in my judgment, the most disastrous blow ever struck at the constitutional power of Congress. It strikes down an important portion of the most vital and essential power of the Government in practically excluding any recourse to incomes from real and personal estate for the purpose of raising needed revenue to meet the Government's wants and necessities under any circumstances.

Mr. Justice White, now Chief Justice of the United States, dissenting, says of the majority opinion:

The injustice of the conclusion points to the error of adopting it. It takes invested wealth and reads it into the Constitution as a favored and protected class of property, which can not be taxed without apportionment, whilst it leaves the occupation of the minister, the doctor, the professor, the lawyer, the inventor, the author, the merchant, the mechanic, and all other forms of industry upon which the prosperity of the people must depend, subject to taxation without that condition. A rule which works out this result, which, it seems to me, stultifies the Constitution by making it an instrument of most grievous wrong, should not be adopted, especially when, in order to do so, the decisions of this court, the opinions of the law writers and publicists, tradition, practice, and the settled policy of the Government must be overthrown.

And concluding his able dissenting opinion says:

It is, I submit, greatly to be deplored that, after more than 100 years of our national existence, after the Government has withstood the strain of foreign wars and the dread ordeal of civil strife, and its people have become united and powerful, this court should consider itself compelled to go back to a long repudiated and rejected theory of the Constitution, by which the Government is deprived of an inherent attribute of its being, a necessary power of taxation.

The patriotic utterances of the dissenting judges in the income-tax decision will live in the minds and hearts of the American people, and in my judgment at an early date their opinions will be regarded as the law and the majority opinion will be discarded and set aside as the mistaken judgment of this high court.

Judge Walter Clark, chief justice of the Supreme Court of North Carolina, one of the ablest judges of the South and of the country, in an address to the law department of the University of Pennsylvania, April 27, 1906, in discussing the action of the Supreme Court in declaring acts of Congress unconstitutional, says:

Such power does not exist in any other country and never has. It is therefore not essential to our security. It is not conferred by the Constitution; but, on the contrary, the convention, as we have seen, after the fullest debate, four times, on four several days, refused by a decisive vote to confer such power. The judges not only have never exercised such power in England, where there is no written constitution, but they do not exercise it in France, Germany, Austria, Denmark, or in any other country which, like them, has a written constitution.

A more complete denial of popular control of this Government could not have been conceived than the placing of such unreviewable power in the hands of men not elected by the people and holding office for life. The legal-tender act, the financial policy of the Government, was invalidated by one court and then validated by another, after a change in its personnel. Then the income tax, which had been held constitutional by the court for a hundred years, was again so held, and then by a sudden change of vote by one judge it was held unconstitutional, nullified, and set at naught, though it had passed by a nearly unanimous vote both Houses of Congress, containing many lawyers who were the equals, if not the superiors, of the vacillating judge, and had been approved by the President and voiced the will of the people. This was all negatived (without any warrant in the Constitution for the court to set aside an act of Congress) by the vote of one judge; and thus $100,000,000 and more of annual taxation was transferred from those most able to bear it and placed upon the backs of those who already carried more than their fair share of the burdens of government. Under an untrue assumption of authority given by 39 dead men one man nullified the action of Congress and the President and the will of 75,000,000 of living people, and in the 13 years since has taxed the property and labor of the country, by his sole vote, $1,300,000,000, which Congress, in compliance with the public will and relying on previous decisions of the court, had decreed should be paid out of the excessive incomes of the rich.

In England one-third of the revenue is derived from the superfluities of the very wealthy by the levy of a graduated income tax and a graduated inheritance tax, increasing the per cent with the size of the income. The same system is in force in all other civilized countries. In not one of them would the hereditary monarch venture to veto or declare null such a tax. In this country alone the people, speaking through their Congress and with the approval of their Executive, can not put in force a single measure of any nature whatever with assurance that it shall meet with the approval of the courts; and its failure to receive such approval is fatal, for, unlike the veto of the Executive, the unanimous vote of Congress (and the income tax came near receiving such vote) can not prevail against it. Of what avail shall it be if Congress shall conform to the popular demand and enact a "rate-regulation" bill and the President shall approve it if five lawyers, holding office for life and not elected by the people, shall see fit to destroy it, as they did the income-tax law? Is such a government a reasonable one, and can it be longer tolerated after 120 years of experience have demonstrated the capacity of the people for self-government? If five lawyers can negative the will of 100,000,000 of men, then the art of government is reduced to the selection of those five lawyers.

A power without limit, except in the shifting views of the court, lies in the construction placed upon the fourteenth amendment, which passed, as everyone knows, solely to prevent discrimination against the colored race, has been construed by the court to confer upon it jurisdiction to hold any provision of any statute whatever "not due process of law." This draws the whole body of the reserved rights of the States into the maelstrom of the Federal courts, subject only to such forbearance as the Federal Supreme Court of the day or in any particular case may see fit to exercise. The limits between State and Federal jurisdiction depend upon the views of five men at any given time, and we have a government of men and not a government of laws, prescribed beforehand.

At first the court generously exempted from its veto the police power of the several States. But since then it has proceeded to set aside an act of the Legislature of New York restricting excessive hours of labor, which act had been sustained by the highest court in that great State. Thus labor can obtain no benefit from the growing humanity of the age, expressed by the popular will in any State, if such statute does not meet the views of five elderly lawyers, selected by influences naturally antagonistic to the laboring classes and whose training and daily associa-

tions certainly can not incline them in favor of restrictions upon the power of the employer.

The vast political power now asserted and exercised by the court to set aside public policies, after their full determination by Congress, can not safely be left in the hands of any body of men without supervision or control by any other authority whatever. If the President errs, his mandate expires in four years, and his party as well as himself is accountable to the people at the ballot box for his stewardship. If Members of Congress err, they, too, must account to their constituents. But the Federal judiciary hold for life, and though popular sentiment should change the entire personnel of the other two great departments of government, a whole generation must pass away before the people could get control of the judiciary, which possesses an irresponsible and unrestricted veto upon the action of the other departments—irresponsible because impeachment has become impossible, and if it were possible it could not be invoked as to erroneous decisions unless corruption were shown.

The control of the policy of government is thus not in the hands of the people, but in the power of a small body of men not chosen by the people and holding for life. In many cases which might be mentioned, had the court been elective, men not biased in favor of colossal wealth would have filled more seats upon the bench, and if there had been such decision as in the Income Tax case, long ere this, under the tenure of a term of years, new incumbents would have been chosen, who, returning to the former line of decisions, would have upheld the right of Congress to control the financial policy of the Government in accordance with the will of the people of this day and age, and not according to the shifting views which the court has imputed to language used by the majority of the 55 men who met in Philadelphia in 1787.

It may be that this power in the courts, however illegally grasped originally, has been too long acquiesced in to be now questioned. If so, the only remedy which can be applied is to make the judges elective and for a term of years, for no people can permit its will to be denied and its destinies shaped by men it did not choose and over whose conduct it has no control, by reason of its having no power to change them and select other agents at the close of a fixed term.

As far back as 1820 Mr. Jefferson had discovered the "sapping and mining," as he termed it, of the life-tenure, appointive Federal judiciary, owing no gratitude to the people for their appointment and fearing no inconvenience from their conduct, however arbitrary, in the discharge of such office. In short, they possess the autocratic power of absolute irresponsibility. "Step by step, one goes very far," says the French proverb. This is true of the Federal judiciary. Compare their jurisdiction in 1801, when Marshall ascended the bench, and their jurisdiction in 1906. The Constitution has been remade and rewritten by the judicial glosses put upon it. Had it been understood in 1787 to mean what it is construed to mean to-day, it is safe to say not a single State would have ratified it.

As was said by a great lawyer lately deceased, Judge Seymour D. Thompson, in 1891 (25 Am. Law Review, 288): "If the proposition to make the Federal judiciary elective instead of appointive is once seriously discussed before the people, nothing can stay the growth of that sentiment, and it is almost certain that every session of the Federal Supreme Court will furnish material to stimulate that growth."

Great aggregations of wealth know their own interests, and it is very certain that there is no reform and no constitutional amendment that they will oppose more bitterly than this. What, then, is the interest of all others in regard to it?

For my part, I believe in popular government. The remedy for the halting, halfway popular government which we have is more power to the people. When some one observed to Mr. Gladstone that the "people are not always right," he replied, "No; but they are rarely wrong." When they are wrong their intelligence and their interests combine to make them correct the wrong. But when rulers, whether kings or life judges, or great corporations, commit an error against the interests of the masses, there is no such certainty of correction.

The time may not be ripe when the election of supreme Federal judges should be written in the Federal Constitution, but the time has come when the Constitution of the United States should be so amended as to forbid the appointment of Federal judges for life and a limitation be put upon their tenure of office; and at least the judges of the inferior or district Federal courts should be either elected or appointed for a limited term of years. If the public is in that condition of mind in which it is ready to strike down life tenure in office, that condition is due in a large measure to appointments of men whose leanings are toward corporate wealth rather than the public will, and to the arbitrary abuse of power by Federal judges.

Is it any wonder that there is a growing prejudice among the masses of the people against life tenure in office and against Federal courts, when by them the laws of the States and of the Nation are so readily set aside and declared null and void, ofttimes at the instance of great corporate interests that in their greed for gain forget the public welfare and bid defiance to the popular will? The unrest in the country is the outgrowth of accumulated wrongs unredressed. A change is demanded. A political revolution is abroad in the land. The conscience of the Nation has been quickened. A mighty protest against further domination by special interests is heard in all sections of the country. The rule of privilege is doomed. The day of the reactionary is drawing to a close, and the appeal for progressive and constructive legislation is finding a response in the halls of legislation. The cry of the masses for relief against the burdens of taxation, unequally distributed, is being heard and heeded by that party which alone can and will restore as an actual fact a government of the people, for the people, by the people.

The Republic must be preserved by Democratic effort or socialism, the logical result of Republican misrule, will try its hand and new and untried doctrines and mere experiments in government be thrust to the front, and individual responsibility and self-reliance will give place to communism with all its attendant confusion. But if Democratic effort fail, the dawn of socialism will not be so forbidding as the further rule of selfish privilege. Corporate domination must end or Government ownership of all public utilities will come. Before we go from one extreme to the other let us restore to power that party whose great history gives evidence and confidence to the country that in the triumph of Democratic principles lies the safety of the Republic.

Mr. UNDERWOOD. Mr. Chairman, I will ask the gentleman from New York to use some of his time.

Mr. PAYNE. Is the gentleman from Alabama going to use the balance of this hour he has entered upon?

Mr. UNDERWOOD. I have no one on the floor now that cares to go on, and I prefer that the gentleman from New York should use some of his time.

Mr. PAYNE. I have some difficulty in keeping my orators on the floor, but I will yield one hour to the gentleman from Iowa [Mr. PROUTY].

Mr. PROUTY. Mr. Chairman, this is not a political question, or, at least, it is not a partisan question. I apprehend that every man will find his alignment in this matter determined very much by his early surroundings, his natural sympathies, and his early education. I am going to discuss this question for the time that has been allotted to me freely, frankly, as I see it, without any reference to what anybody else thinks or without reference to what criticism it may bring to me.

Now, as I said, the alignments in this case will rest very largely on our early surroundings. I remember when a boy my father and myself used to saw logs in the timber, and when we got ready to go home at night we put the tools in a sack and strung them on a handspike and carried them home. I always noticed that my good old father gave me the long end of the handspike, and I honor to this day his memory for that thing. There are people in this world who, when they find that one man is a little bit weaker than another, insist on giving him the short end of the handspike and make him carry the heavier part of the load. I am not in favor of that policy.

Taxes are the involuntary contribution made by the citizens to their government for the protection of their persons and their property. All agree that these contributions should be in proportion to the protection received, and every humane man will concede that it ought to bear some relation to the ability to contribute. A rich man ought to contribute more than a poor man, because he has more property to protect and is better able to contribute.

Keeping these propositions clearly in mind, let us analyze our system of national taxation.

There are two systems of taxation in general use in this country and in foreign countries. One is known as direct taxation, in which men are taxed either in proportion to the property they own or the income they receive; the other, an indirect or consumption tax. When our forefathers were shaping our Constitution they chose, in a general way, the indirect method of taxation for the Federal Government and gave to the States the direct method. This was done at the time largely on account of the fact that indirect taxes can be collected without knowledge by the donor of the amount that he is paying, and hence it can be collected usually without friction, while by the direct method of taxation the taxpayer knows the amount and usually pays it all at a time, and therefore feels its burden. And this method is apt to create friction and irritation. As the Federal Government had not then been formed, and as it was feared the people would not have the same loyalty toward the new Federal Government that they had toward their State government, it was deliberately designed that this indirect method of taxation should be largely preserved for the Nation. It was thought that the people would not feel heavily the burden of this taxation. So wisely did they choose and so successfully has this propaganda been taught that many have now been led to believe that this method of taxation enriches instead of impoverishes. It may as a protection but never as a revenue measure.

I might as well say here, for the benefit of my Democratic friends, that there is no possible application of their theory of a tariff for revenue only which can relieve itself from the criticism that it is nothing in the world but a burden, without any benefit in return for it. My Republican friends on this side, while admitting, I think, as freely as I do the burden of this taxation, at the same time, by their very ingenious and wise method of making it a protection to the man who pays it, make it, in a sense, an equation that is at least tolerable.

It is true that under the Constitution the Federal Government has power to levy direct taxes, provided they are distributed among the States in proportion to population. But the inevitable inequalities resulting from such a plan of taxation are so gross and flagrant as to absolutely debar any use

whatever of that method. So practically the only taxing power the Federal Government has is that allowing it to collect duties, imposts, and excises. Practically all the money collected by the Government is from two sources—custom duties and internal revenue. These taxes are paid by the individual, not in proportion to his property nor in proportion to his ability to pay them, but, barring negligible quantities and a few exceptional instances, they are paid in direct proportion to the amount consumed by the taxpayer and those dependent upon him. The poor man pays as much as the rich man if he uses as many of the taxed goods, and he pays more if he uses more. I know there are those who claim the consumer does not pay the tax, and there are a few instances in which that is true, but, on the whole and as a general rule, the man who consumes the article pays the tax, and there is not a writer on political economy who does not now both recognize and announce this rule. It is easily demonstrable both as to our income and our duty tax. Take, for instance, the internal revenue on cigars.

The man who makes the cigars, after computing the cost of material and labor, adds the Federal revenue tax and then sells them to the wholesaler at enough to equal these items and a reasonable profit to himself. It is true he pays the tax in the first instance, but when he sells them to the wholesaler he gets it back. It is true, then, that at that time the wholesaler pays it, but when he sells them to the retailer he gets his money back, and then the retailer has paid it. The retailer then sells them to the consumer, and he gets his money back, so the retailer has not paid it; it is passed on to the consumer. When he smokes the cigar he has nobody to get the tax back from, and he is the man who has finally paid the tax.

And this is true of every article upon which an internal-revenue tax is levied. This is equally true of customs duties.

We have just been discussing the sugar schedule on which there is a tariff duty of $1.95 outside of that coming from Cuba. When the importer brings this sugar into this country he has to pay this tax, and for the time being it may be said that he has paid it, but when he sells it to the wholesaler he includes this item in the price and gets it back, so, then, he hasn't paid the tax, but the wholesaler has. The wholesaler then sells it to the retailer, including this item in the price. Then the wholesaler gets back the tax, and the retailer has paid it. The retailer then sells it to the consumer, and he includes this tax in the price. Then he gets back the taxes he has paid when the consumer has paid him. But the consumer and his family eats up the sugar and they have got no one from whom they can get back the tax they have paid. And, therefore, the ultimate consumer is the one who has actually paid the tax.

Mr. COX of Ohio. The gentleman should direct his remarks to the other side of the House.

Mr. PROUTY. No; my good friends on the Democratic side of the House, some of them, need it just as badly as they do on the other side. When you levy a tax based upon revenue, you are collecting in the same proportion from the rich and the poor as do these gentlemen on the Republican side, so far as that is concerned.

Take, again, the imported cloth in a suit of clothes. The importer brings it in and pays the duty or tax; he sells it to the wholesale merchant and includes in the price the duty. He has then got back the tax and has not paid it. He is out nothing on account of the tax. The wholesaler sells it to the merchant tailor, and in the sale includes the duty. He has got the tax back and is therefore out nothing, but the merchant tailor has paid it. The merchant tailor makes a suit of clothes, and in the price of the suit he figures in the cost of the cloth, the duty included. So, he has got back his money and has not paid the tax. The fellow that has bought the suit of clothes has paid it, and as he wears out the clothes he has no one from whom he can be reimbursed, and he therefore pays the tax.

And this is true of pepper and every other item upon which a tariff is levied, whether for revenue or protection, barring, of course, a few negligible quantities and phenomenal cases.

From this it will be seen that so far as the Federal Government is concerned its vast revenues are gathered in from the people who finally consume the articles upon which an internal or tariff duty is levied. And that, too, without the slightest reference to the ability to pay or to the protection of the property owned.

I assert that on the whole the moderately poor of the country pay more per capita for the support and defense of this Government than do the opulent rich. Why? The opulent rich seldom have big families. The moderately poor usually raise large families and therefore are the larger consumers. I assert that this method of taxation is grossly unfair and unjust, and I am quite surprised that my Democratic friends desire to perpetuate this system, when its sole and only purpose, according to their doctrine, is the collecting of revenue. It is the most unjust, unfair, and inequitable system that has ever been devised by mortal man. It was apparently designed to collect the expenses of the Government off of the poor without letting them know it.

I hold in my hand the names of 51 multimillionaires, with the amount of their reputed wealth, as follows:

List from Munsey's Scrap Book of June, 1906, presenting the property owned by 51 of the very richest persons of the United States.

Rank.	Name.	How made.	Total fortune.
1	John D. Rockefeller	Oil	$600,000,000
2	Andrew Carnegie	Steel	300,000,000
3	W. W. Astor	Real estate	300,000,000
4	J. Pierpont Morgan	Finance	150,000,000
5	William Rockefeller	Oil	100,000,000
6	H. H. Rogers	do	100,000,000
7	W. K. Vanderbilt	Railroads	100,000,000
8	Senator Clark	Copper	100,000,000
9	John Jacob Astor	Real estate	100,000,000
10	Russell Sage	Finance	80,000,000
11	H. C. Frick	Steel and coke	80,000,000
12	D. O. Mills	Banker	75,000,000
13	Marshall Field, jr	Inherited	75,000,000
14	Henry M. Flagler	Oil	60,000,000
15	J. J. Hill	Railroads	60,000,000
16	John D. Archbold	Oil	50,000,000
17	Oliver Payne	do	50,000,000
18	J. B. Haggin	Gold	50,000,000
19	Harry Field	Inherited	50,000,000
20	James Henry Smith	do	40,000,000
21	Henry Phipps	Steel	40,000,000
22	Alfred G. Vanderbilt	Railroads	40,000,000
23	H. O. Havemeyer	Sugar	40,000,000
24	Mrs. Hetty Green	Finance	40,000,000
25	Thomas F. Ryan	do	40,000,000
26	Mrs. W. Walker	Inherited	35,000,000
27	George Gould	Railroads	35,000,000
28	J. Ogden Armour	Meat	30,000,000
29	E. T. Gerry	Inherited	30,000,000
30	Robert W. Goelet	Real estate	30,000,000
31	J. H. Flagler	Finance	30,000,000
32	Claus Spreckels	Sugar	30,000,000
33	W. F. Havemeyer	do	30,000,000
34	Jacob H. Schiff	Banker	25,000,000
35	P. A. B. Widener	Street cars	25,000,000
36	George F. Baker	Banker	25,000,000
37	August Belmont	Finance	20,000,000
38	James Stillman	Banker	20,000,000
39	John W. Gates	Finance	20,000,000
40	Norman B. Ream	do	20,000,000
41	Joseph Pulitzer	Journalism	20,000,000
42	James G. Bennett	do	20,000,000
43	John G. Moore	Finance	20,000,000
44	D. G. Reid	Steel	20,000,000
45	Frederick Pabst	Brewer	20,000,000
46	William D. Sloane	Inherited	20,000,000
47	William B. Leeds	Railroads	20,000,000
48	James P. Duke	Tobacco	20,000,000
49	Anthony N. Brady	Finance	20,000,000
50	George W. Vanderbilt	Railroads	20,000,000
51	Fred W. Vanderbilt	do	20,000,000
	Total		3,295,000,000

These men own in the aggregate about $3,500,000,000 of property, and it is said that they control about $35,000,000,000. The report of the Bureau of Commerce and Labor of the same date showed that the approximate wealth of the United States was $107,000,000,000, so these 51 people own and control practically one-third of the entire wealth of the United States. Now, I will venture the statement that these men, with their vast wealth, do not pay the Federal Government for its support and for its defense of their persons and vast properties as much as an equal number of section hands on the Pennsylvania Railroad, who are heads of families.

Take the first man on the list—John D. Rockefeller, at that time reputed to be worth $600,000,000, with a reputed income of $60,000,000 a year.

I have living near me at home a section man that has eight children with an actual income of $504 a year. Now, I will wager everything I have that this section man pays more for the support of the Federal Government than does John D. Rockefeller.

Now, let us analyze for a minute. Where do our taxes come from to support the Federal Government? From internal revenue and tariff duties.

Now, what are the items from which we collect internal-revenue duties principally? Spirits, tobacco, and oleomargarine.

Now, my friend, Rockefeller does not smoke, he does not chew, he does not drink, he does not take snuff, and he does not eat oleomargarine, and therefore he does not pay a cent to the Federal Government on its internal-revenue tax. I am sorry to say that my section hand friend uses a small amount of all of those items and therefore pays the tax on them.

Mr. BURLESON. I do not know about that. What is the gentleman's authority for his statement? Oleomargarine is one of the most wholesome and nutritious food products which is being manufactured.

Mr. PROUTY. I am glad to find somebody on that side of the House who is ready to stand up here and defend the Oleomargarine Trust. I am not.

Mr. BURLESON. The gentleman will find an overwhelming majority on this side who are ready to defend untaxed oleomargarine——

Mr. PROUTY. I have already learned, to my sorrow, that I may expect anything from the stupendous majority of that side of the House.

Mr. BURLESON. Which will be largely supplemented by votes on your side of the Chamber.

Mr. PROUTY. That may be prediction only. I have seen men on that side make predictions that failed to come true.

Mr. BURLESON. This particular one will be justified, however, and that, too, in the near future.

Mr. FOWLER. Will the gentleman yield?

Mr. PROUTY. Just as soon as I finish the sentence I will yield to the gentleman.

Mr. BOWMAN. That is one reason why he is there.

Mr. PROUTY. There are fellows who do not do any of those things who are just as poor.

Mr. BOWMAN. Not many that I know of.

Mr. PROUTY. You live in a mighty prosperous country, if that is true.

Mr. BOWMAN. I surely do.

Mr. PROUTY. I live in a country where very few men partake of one of the articles which I have named.

Mr. CANNON. Will the gentleman yield there?

Mr. PROUTY. Certainly.

Mr. CANNON. The statistics show that the gentleman's State has a larger per capita wealth than any other State in the Union.

Mr. PROUTY. I agree with you on that, sir, and yet the same statistics, I am sorry to say, show that the average income of the people of my State is only a little over $600. And yet I am prepared to say that the people of my State, with an average income of $600 a year, pay more per capita than does John D. Rockefeller for the support of this great Government that lends its entire power in the support of his vast property. The Armies and Navies of the United States are always held in readiness to defend his holdings in every quarter of the globe.

Now, I am going to take up the other proposition.

Mr. DYER. I would like to ask the gentleman how he figures that the people of his State pay so much more than the average of the Federal revenue tax?

Mr. PROUTY. I have not said that. I said that they paid more on an average than John D. Rockefeller did. That is all I said. I am going to stand on that proposition until somebody knocks me down with a hard fact. [Laughter.]

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

Mr. PROUTY. Certainly, but do not take too much of my time.

Mr. POWERS. Do you not favor the tax on whisky, and tobacco, and oleomargarine, and is not the tax on those articles levied, for one reason, to discourage their use because of the fact that they are detrimental to morals and health?

Mr. PROUTY. I am not going to turn from this discussion in order to deliver a temperance lecture, although I can. I am discussing a revenue policy, pure and simple, and not temperance.

Now, take the articles upon which tariff duties are levied. There is sugar. I venture the assertion that my section hand and his family use 10 pounds of sugar to 1 used by the dyspeptic Rockefeller and his good wife, and therefore he pays 10 times as much tax to the Federal Government. And this is true of pepper and every other article of food on the tax lists, and this is largely true of wearing apparel.

My section man and his good wife and eight boys and girls wear out more boots and shoes, more hats, more pants, more coats, more dresses, more neckties, more collars than does my peripatetic friend J. D. and his good wife. If the reports in the newspapers are to be credited, J. D. has most of his clothes made for himself and his wife in Paris, which he brings in duty free; and I saw by the papers that the last time he was in Paris he bought wigs enough to last him the rest of his life. [Laughter.]

Now, I will yield to the gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman whether, in making the comparison of the section hand with John D. Rockefeller, wherein he makes the section man pay more for the support of the Government than John D. Rockefeller—I want to know if he means to say that the difference is brought about because the section man that he speaks of chews and drinks? [Laughter.]

Mr. PROUTY. Everything that he consumes and eats and drinks on which there is a duty or revenue tax.

Mr. FOWLER. Now, I ask if it is not a fact that the section man pays more because of what he eats and wears to the General Government for its support than John D. Rockefeller?

Mr. PROUTY. Oh, I have just covered that point. If the gentleman does not understand it I can not afford to take time to repeat it.

Mr. FOWLER. Yes; but you wound up with his chewing and smoking in making the distinction. I want to separate them. [Laughter.]

Mr. PROUTY. Well, take your time and separate them. Do not take that out of my time. [Laughter.]

Mr. FOWLER. Now, if the gentleman will vote as he talks, he will be all right. [Laughter and applause.]

Mr. PROUTY. The gentleman should not undertake to make a speech in my time.

So I repeat the statement that I made a few minutes ago, that J. D. Rockefeller does not pay to the Federal Government for his own protection, or the protection of his vast properties, as much as does this poor section man with his big family. John D. Rockefeller does not pay as much out of his income of $60,000,000 as does this man out of his income of $504.

Mr. JACKSON. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Kansas?

Mr. PROUTY. Certainly.

Mr. JACKSON. Of course the gentleman from Iowa does not include the corporate tax paid under the last Republican law?

Mr. PROUTY. Yes; I do.

Mr. JACKSON. The gentleman would not contend that the scheme——

Mr. PROUTY. Oh, I have not time to let the gentleman make an argument. The gentleman can get as much time for himself as I have.

Mr. JACKSON. Oh, the gentleman need not be uneasy about his position——

Mr. PROUTY. I am not. Take for example the case of John D. Rockefeller. Practically every bit of money that he gets—all his income—has been tithed first for the revenue tax on the corporate income before it reaches him. In other words, take the Standard Oil Co.; before he gets his dividends the company has been compelled to pay a revenue tax. Where did that company get the money with which to pay not only his dividends but the tax? I answer, from the people that used his coal oil. [Applause.]

Mr. JACKSON. Yes; but the gentleman surely——

Mr. PROUTY. Pardon me, Mr. Jackson. I can not afford to stop in order that you may make an argument, but I will yield for a question.

Mr. JACKSON. The gentleman will not let me ask him a question. The gentleman should be fair enough to admit that Mr. Rockefeller's revenues are diminished by the amount of the tax given to the Federal Government?

Mr. PROUTY. No. His amount is not diminished by the tax. Any man who has been watching this matter can see easily that if it is from Standard Oil enough is collected from the people that use oil to cover expense, tax, and dividends. Having as they do a practical monopoly, they do not allow the tax to interfere with dividends. They just raise the price to the consumer enough to equal the tax. If the dividends are from railroad stocks or other public-service corporations it is just as true. The public pays the fares that cover the tax to the Government and the dividend to Rockefeller. If there was no tax the fares could be less. The public therefore pays the corporation tax—not Rockefeller.

Mr. MADDEN. Mr. Chairman, will the gentleman let me ask him a question?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Illinois?

Mr. PROUTY. Yes; I will yield for a question.

Mr. MADDEN. Does this bill provide that an individual drawing dividends from a corporation which pays the corporation tax shall be exempted from the tax provided to be collected under the bill?

Mr. PROUTY. Oh, if the gentleman has followed me correctly, he will have noticed that I am not either criticizing or championing this bill. I am discussing the principles upon which we should base an income tax and the reasons why it should be done.

Mr. MADDEN. I am asking you whether the bill itself so provides.

Mr. PROUTY. Oh, I have not stopped to consider that.

Mr. MADDEN. Then you have not read the bill?

Mr. PROUTY. Oh, yes; I have. But it would take me half an hour to go over the authorities and decisions of the Supreme Court of the United States to give you a fair discussion on that; and I have not the time for that.

Mr. MADDEN. Does not the bill now under discussion say this——

Mr. PROUTY. No; I have answered the gentleman's question. I can not stop for a debate. What I said was this——

Mr. JACKSON. *Mr. Chairman, will the gentleman yield?*

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Kansas?

Mr. PROUTY. No; I can not stop, Mr. JACKSON. I know you can never stop asking questions; otherwise I would yield. *[Laughter.]*

Now, what I was trying to say is this: That we ought to have a system that would enable the Congress to pass a law that would distribute the burdens of taxation with some reference and some relation to the amount of property that a man has, or at least the amount of protection he has received from the Government, and, according to my theory, in accordance with his ability to bear the burdens of the Federal Government. [Applause.]

Mr. BOWMAN. Now, you are getting down to bedrock.

Mr. PROUTY. Now, when our forefathers started on this system it was not a bad one. Our people were none of them very poor and none of them were very rich. But with the advancement of our civilization, with the vast accumulations of property, with the enormous incomes that some have, with the corresponding poverty brought to others, the present system is *made practically intolerable, whether you found it upon the* basis of a protective tariff or upon the basis of a tariff for revenue only. [Applause.]

Mr. MCCALL stated on the floor of the House the other day that the per capita tax for the Federal Government was about $7. That is about correct. This makes my section hand pay $70 per year as taxes for the support of the Federal Government. My friend J. D. possibly pays $14, but I seriously doubt that. If we had an income tax of 1 per cent on incomes above $5,000, J. D. would pay $599,950, which I submit is not out of proportion to the protection received for his vast properties. But not a dollar of this comes out of his necessities or even luxuries. But when you take $70 out of the meager income of the poor man, with his large family, you take it out of the necessities of life. It means privation and want. It means children poorly fed and thinly clad. It means children going to school with holes in their shoes, holes in their stockings and in their pants fore and aft. It means the taking of the children out of school at tender years and crowding them into the factory to help splice out the family living. It means sick children and no doctor. It means that the wan, gaunt specter of dread and want accompanies the holy stork. It means real pinching, poverty, and distress.

Such a system as that is intolerable and indefensible as a just system of collecting a revenue. It violates every principle of equity and equality. It puts the burdens upon those least able to bear them and practically relieves those who are best able to carry them. And I am simply shocked at the statements so frequently made on that side of the Chamber that they are going to convert this system of tariff duties into a pure revenue measure. I, for one, am prepared to say that when this system is no longer needed to protect American labor against competition from the cheap labor of Europe and Asia, when it is no longer needed to protect American industries from the ruinous competition of the Old World, when it is no longer needed to protect American manhood and womanhood and American standard of living, when it is no longer needed to prevent American labor from becoming "Japanesed" or "Chinesed," I am prepared to abolish it and substitute a system that will approximate justice—one that will levy burdens with some reference, at least, to the benefits received and the ability to pay.

Now, what is the system that will approximate these conditions? In my opinion a well graduated income tax levied on the excess above a fair living income. Such a tax would be just.

First. Because it only requires the payment of a small per cent of that portion of the income above that which is fairly necessary for the support of oneself and family.

Second. The effect of such a tax is to levy it upon every man substantially in proportion to the amount of his productive property.

Third. It places the burden of taxation upon the shoulders of those best able to bear them.

No one can feel seriously the burden of taxation when he is only required to pay into the Federal Treasury a small per cent of the amount of his income above a fair living price. Under our system now, the poor man has to take from the necessities of life to pay his share to the support of the Federal Government. Under the income tax suggested, no man would have to pay any tax until his necessities were fairly provided for. *If I have an income of $10,000 a year, and* myself and family can live comfortably and respectably on $5,000 a year, what possible harm can it do me or my family to pay a part of that $5,000 to the support of the Government that furnishes me and my property protection?

How different would be the burden imposed upon John D. Rockefeller if he had to pay 1 per cent on $60,000,000, which would be $600,000, to that of the section man who now pays out $70 out of his $504. John D. Rockefeller would still have left to live on during the whole year the sum of $59,400,000, while the section hand would only have $434 with which to feed, clothe, educate, and care for his family of 10. I repeat that no man can be oppressed with a fair income tax. If he does not make $5,000 a year he can not be compelled to pay anything. If Providence and his country are so good to him as to enable him to make more, it can not possibly be a burden to him to pay part of it in support of his Government.

But this brings us to the legal question. Some believe that under the Constitution and the decisions of our Supreme Court that Congress has no power to pass a revenue measure like the one now under consideration, and that the only way that this matter can be reached is by an amendment to the Federal Constitution, expressly conferring that authority on Congress. There are others, however, who believe there is room under the Constitution, as interpreted by our Supreme Court, to allow Congress to levy a tax of this character, and I understand our *distinguished President to be one of that number. In his letter* of acceptance of July 28, 1908, he said:

> The Democratic platform demands two constitutional amendments, one providing for an income tax and the other for the election of Senators by the people. In my judgment an amendment to the Constitution for an income tax is not necessary. I believe that an income tax, when the protective system of customs and the internal-revenue tax shall not furnish income enough for governmental need, can and should be devised which, under the decision of the Supreme Court, will conform to the Constitution.

In the case of Pollock against The Farmers' Loan & Trust Co., decided in the One hundred and fifty-seventh United States, page 429, the Supreme Court of the United States held the income tax of 1904 invalid and unconstitutional, because, as they construed it, it levied a direct tax on the rents or income of real estate, and because it levied a tax upon the income derived from municipal bonds. At that hearing the court was equally divided, *four and four, upon the question as to whether Congress could* levy an income tax derived from other sources.

Subsequently attorneys for the appellants filed a motion for a rehearing in that case for the final determination of the unsettled questions. And the Government, through the Attorney General, Mr. Olney, entered an appearance and asked that the whole case be reopened and reargued, not only upon the points undecided, but upon the whole question, which petition for a rehearing was granted on the part of the Supreme Court.

In the meantime the vacancy in the court had been filled by the recovery of Justice Jackson, making the full bench of nine members present. As the court had stood four to four in the first decision, it was generally supposed that Justice Jackson would be the controlling factor in the decision. And while in the final case he voted with Harlan, White, and Brown to support the constitutionality of the tax, one of the judges that had formerly voted with them turned over and voted with Chief Justice Fuller, thus making the court stand five for the unconstitutionality and four for the constitutionality of the act.

The opinions in this case appear in One hundred and fifty-eighth United States Reports, beginning on page 601 and ending *on page 715. These pages, including, as they do, the briefs of* counsel, the opinion of Chief Justice Fuller, and the dissenting opinions of Harlan, White, Brown, and Jackson, constitute, in my opinion, a record of the greatest legal battle that was ever fought in American jurisprudence. It was a battle of legal giants.

In that struggle, as he always did, Justice Harlan put upon the Constitution such a construction as he believed would protect the rights of the masses of people against the force and advantage of accumulated wealth. On page 684–685 he says:

> But the court takes care to say that there is no question as to the validity of any part of the Wilson Act, except those sections providing for a tax on incomes. Thus something is saved for the support and maintenance of the Government. It nevertheless results that those parts of the Wilson Act that survive the new theory of the Constitution evolved by these cases are those imposing burdens on the great body of the American people who derive no rents from real estate and who are not so fortunate as to own invested personal property, such as the bonds or stocks of corporations that hold within their control almost the entire business of the country.

Such a result is one to be deeply deplored. It can not be regarded otherwise than as a disaster to the country. The decree now passed dislocates—principally, for reasons of an economical nature—a sovereign power expressly granted to the General Government and long recognized and fully established by judicial decisions and legislative actions. It so interprets constitutional provisions originally designed to protect the slave property against oppressive taxation as to give privileges and immunities never contemplated by the founders of the Government.

If the decision of the majority had stricken down all the income-tax sections, either because of unauthorized exemptions or because of defects that could have been remedied by subsequent legislation, the result would not have been one to cause anxiety or regret, for in such a case Congress could have enacted a new statute that would not have been liable to constitutional objections. But the serious aspect of the present decision is that by a new interpretation of the Constitution it so ties the hands of the legislative branch of the Government that without an amendment of that instrument, or unless this court at some future time should return to the old theory of the Constitution, Congress can not subject to taxation, however great the needs or pressing the necessities of the Government, either the invested personal property of the country, stocks, bonds, and investments of all kinds, or the income arising from the renting of real estate, or from the yield of personal property, except by the grossly unequal and unjust rule of apportionment among the States. Thus undue and disproportioned burdens are placed upon the many, while the few, safely intrenched behind the rule of apportionment among the States on the basis of numbers, are permitted to evade their share of the responsibility for the support of the Government ordained for the protection of the rights of all.

I can not assent to an interpretation of the Constitution that impairs and cripples the just powers of the National Government in the essential matter of taxation and at the same time discriminates against the greater part of the people of our country.

The practical effect of the decision to-day is to give to certain kinds of property a position of favoritism and advantage inconsistent with the fundamental principles of our social organization and to invest them with power and influence that may be perilous to that portion of the American people upon whom rests the larger part of the burdens of the Government and who ought not to be subjected to the dominion of aggregated wealth any more than the property of the country should be at the mercy of the lawless.

Under the interpretation given the Constitution by the decision of the majority of the court, a man might own a million acres of productive real estate, or a thousand business blocks and skyscrapers, and yet could not be made to pay a cent for the support of the General Government by the application of any practical method. He might own all the stocks and bonds of all the railways of the United States; he might own all the bonds—State, county, and municipal—of the United States, and yet under that interpretation could not be made to pay a cent to the support of the Federal Government. I thought then, and I think now, that the decision of the majority of the court was wrong, and that the dissenting opinions of Harlan, Brown, White, and Jackson were right.

Justice Brown, in his dissenting opinion, says:

Even the specter of socialism is conjured up to frighten Congress from laying taxes upon the people in proportion to their ability to pay them. * * * While I have no doubt that Congress will find some means of surmounting the present crisis, my fear is that in some moment of national peril this decision will rise up to frustrate its will and paralyze its arm. I hope it may not prove the first step toward the submergence of the liberties of the people in a sordid despotism of wealth.

Justice Jackson, in his dissenting opinion, on page 705, says:

The practical operation of the decision is not only to disregard the great principle of equality in taxation, but the further principle that in the imposition of taxes for the benefit of the Government the burdens thereof should be imposed upon those having the most ability to bear them. This decision, in effect, works out a directly opposite result in relieving the citizens having the greater ability, while the burdens of taxation are made to fall most heavily and oppressively upon those having the least ability to pay.

Justice White, in his dissenting opinion, on page 712, said:

The injustice of the decision points to the error of adopting it. It takes invested wealth and reads it into the Constitution as a favored and protected class of property which can not be taxed without apportionment.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. PROUTY. I will yield to the gentleman from Georgia.

Mr. BARTLETT. The gentleman will find the report of that case where one of the judges, now the chief justice of the court, declared that that decision of the Supreme Court was an additional amendment to the Constitution of the United States.

Mr. PROUTY. Yes; that runs through all the dissenting opinions. That decision, however, ended the efforts of the Federal Government to reach that class of property for taxation until 1909, when Congress inserted in the Payne-Aldrich bill section 38, providing for an income tax on corporations. This act was attacked in the same manner and for the same reasons as the act of 1894.

But the Supreme Court, in the case of Flint *v.* The Stone-Tracy Co., reported in the Two hundred and twentieth United States Reports, page 107, sustained the constitutionality of that section. It is now claimed by supporters of this bill that the Supreme Court in that case laid down a rule broad enough to support the income provision of this bill. I wish that I could concur in that opinion, but I can not after a most careful study of the case.

It is true that the Supreme Court in the Flint case holds that section 38 levies an income or occupation tax, and does not sustain the tax on the ground that it is a franchise tax.

Mr. HULL. Will the gentleman yield?

Mr. PROUTY. Will the gentleman from New York give me 10 minutes more time?

Mr. PAYNE. I suppose so if the gentleman is going to yield it all away.

Mr. PROUTY. Well, I will yield to the gentleman from Tennessee; I like to discuss legal questions.

Mr. HULL. Did the gentleman read the Spreckels decision in connection with the suit on which it was based and also in connection with the Flynt case?

Mr. PROUTY. Yes; I have read them.

Mr. HULL. The basis of the doctrine on which this bill is predicated was the holding in the Spreckels case.

Mr. PROUTY. There is where lawyers will disagree, as they seem to in the Pollock case. But in the Pollock case the court held that the income-tax law was invalid largely because it was a tax upon property owned, the income from owned property.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. PROUTY. Certainly.

Mr. GREEN of Iowa. Has not the Supreme Court always held that an occupation tax was valid?

Mr. PROUTY. Yes; a pure occupation tax; but anyone who will candidly study this bill can hardly say it is a pure occupation tax.

If you will turn again to page 161 of the same report you will find the distinction clearly and accurately made. The court says:

The thing taxed is not the mere dealing in merchandise—

As is undertaken to be done in this case—

in which the actual transactions may be the same, whether conducted by individuals or corporations, but the tax is laid upon the privileges which exist in conducting business with the advantages which inhere in the corporate capacity of those taxed, which are not enjoyed by private firms or individuals.

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

Mr. PROUTY. Yes; for a question.

Mr. HULL. I want to ask the gentleman if the court, in saying that, was not simply combating the contention of the complaining party to the effect that the classification was a harsh and arbitrary one which imposed this tax on corporations, while it exempted individuals and copartnerships doing the same business in the same manner, and the Supreme Court answered by saying that Congress found the basis of classification and wrote it into the statute.

Mr. PROUTY. Pardon me, but I can not submit for a speech. I will answer the gentleman's question by referring down to a latter part of the same paragraph, from which I read:

In the Pollock case, as we have seen, the tax was held unconstitutional, because it was in effect a direct tax on the property solely because of its ownership.

I am not going to discuss whether the Supreme Court, in the Flint case, was right or wrong.

On page 150 the Supreme Court says:

In the present case the tax is not payable unless there be a carrying on or doing of business in the designated capacity, and this is made the occasion for the tax, measured by the standard prescribed. The difference between the acts is not merely nominal, but rests upon substantial differences between the mere ownership of property and the actual doing of business in a certain way.

Then, again, on page 151, the court says:

The tax under consideration, as we have construed the statutes, may be described as an excise upon the particular privilege of doing business in a corporate capacity.

I am wholly unable to understand how any lawyer can claim that the language of the Supreme Court in the case of Flint *v.* the Stone-Tracy Co. would uphold the provisions of the present bill. But I am nevertheless in favor of the passage of the bill and putting it squarely up to the Supreme Court again. Chief Justice White is now the only one upon the bench who was on the bench at the time of the hearing of the Pollock case. There are eight new members now on that bench, and I do not believe that it would be judicial sacrilege to express the hope, or even the belief, that enough of those new members of the court entertain the broad views so forcefully expressed by Justices Harlan, White, Brown, and Jackson, and would gladly unite with Chief Justice White in "restoring to the Constitution its old-time interpretation," giving Congress power to levy burdens with some reference to ability to bear them. But in the meantime I profoundly hope the States will ratify the constitutional amendment now proposed. That would clothe the Congress with power to pass a law reaching all classes of incomes. The present bill does not reach fully the situation. Hampered by the

decision of the Supreme Court in the Pollock case, even as limited by the Flint and Spreckels cases, the framers of this bill have been compelled to leave untouched for taxation the individual incomes derived from real estate, municipal bonds, and other fixed investments. I hope soon to be able to vote for a bill that will tax all incomes from whatever source derived.

Mr. GARRETT. Mr. Chairman, I desire at the outset to congratulate my distinguished friend and colleague, the gentleman from Tennessee [Mr. HULL], the author of this bill, upon the excellence of the work which by patient toil and profound study he has wrought and laid before this House. It marks a distinct advance in the use of the taxing power of the Federal Government. It is true progressiveism, moving along intelligent, conservative, and well-defined lines.

It is not surprising that we find many of those on the Republican side of the Chamber standing in opposition to this method of taxation. In so doing they are entirely consistent with their party's course throughout its history. They are thoroughly in line with their platform of 1888, wherein that party declared that before it would trench upon the protective tariff system of the country it would reduce the excise tax upon dealing in tobacco and intoxicating liquors.

It is proper to say, I think, that different motives control the Republican Members who are in opposition to this measure.

Some of them are opposed to it because it is abhorrent to them to tax wealth, but, I think, the great majority of those who are opposed to the bill are opposed to it because it threatens the protective tariff system which their party has nurtured so long.

Mr. Chairman, it is not strange that the question of taxation has always been a central one throughout our Government's history. The question of taxation—the taking of the substance accumulated by the people in order to sustain and support organized society—is and must be the chief concern of the members of that society.

The taxing function of a government is at once its most delicate and its most tremendous power. The Democratic Party has stood consistently by the principle that this delicate, dangerous but essential power was given for one purpose and one only—that is to enable the Government to live. We believe that it may justly collect from the citizen in return for the protection it assures him such of his substance (equality with his fellows in benefits and burdens to be maintained) as is essential to sustain the Government and enable it to perform those duties necessary to the preservation of his rights and liberties and the promotion of his well-being under the law and the Constitution, but not one penny more. The Republican Party has taught, and wrought into law the teaching, that this power may be so manipulated as not only to collect revenues for the Government, but also insure profits to individuals.

The Republican Party organized as a sectional party, and gaining control of the country as such became early in its history the subservient agent of special interests and dedicated itself to their service. That party was the direct descendant of the Whig and Federal organizations. The Whig Party was its father; the Federal Party was its grandfather. It has developed few of the virtues of its father, and in its very infancy it showed an inheritance of all the vices of its grandparent. It seized the taxing power of the Government, and to an extent far greater than its forbears dared to go it has exercised that power, not primarily to raise just sufficient revenue to sustain and support an economically administered Government, but in order to enable a few men to gather into their private coffers the substance of many.

Mr. Chairman, it was the custom of ancient Rome to "farm out" the taxes imposed upon those who were subject to her imperial sway. For so much paid into her coffers an individual was granted the right to collect and retain the taxes of a province, and he in turn would sell to others the rights to this subdivision, and to that and behind these tax gatherers was thrown the force of Roman law and the power of Roman arms to grind from subject peoples the fruitage of their labor. Through long centuries she spread her sway and wrought her iron will, but the time came when she sought to cross the Rhine and bring beneath the Roman eagles the tribute of the tribes of ancient Germany. The world knows the result. To the north of the Lippe that proud Germanic race lured the legions of Varus and destroyed them utterly. They broke the force of Roman power and brought her prestige to the dust. They would not pay to a satrap of even mighty Rome.

Those men who in the depths of the German wilderness spurned Rome and all her glory, humbled her pride, and broke the circle of her world-engulfing power were the progenitors of the mighty race which has builded and peopled this Republic. And yet to-day we see a great political party committed to the doctrine of farming out the taxes, as it were, of exerting the taxing power for the benefit of individuals, and we see that party supported by intelligent, honest men.

Mr. Chairman, the protective-tariff system has had behind it the most ingenious and insidious influences that ever backed a cause. No political principle, no economic policy, no religious creed has ever drawn into the arena of debate and disputation nimbler, keener, or more incisive intellects than has this.

When the Nation was young and but an agricultural country—it having been England's policy to discourage manufactures in the colonies for the sake of her own trade—it was said that the Nation must stimulate its manufactories and that the people could well afford to make the sacrifices required in order to develop her resources as a war measure. This was the soundest basis, let it be said, upon which the system ever rested, but long, long ago that ceased to be a reason. Then came the plea of minority.

The people were told that they must protect infant industries; that the Government must be ward for newborn babes. This was plausible for a time, but at length they began to see whiskers creeping out from beneath the swaddling clothes. The infants had become careless about shaving, and there was no infant's clothing to be seen hanging out on the wash line. A gentle hint was given to the powers that were that the public did not feel called upon to support these industries through a second childhood. [Applause on the Democratic side.]

Then the ingenuity of Republican leadership developed another idea, and we were gravely informed that the protection was costing us nothing; that the foreigner paid the tax. Why, I remember when every Republican orator in the land taught that, asserting it with a gravity and a seriousness that was astounding. No one thinks of teaching that to-day. The man who would make that statement to an intermediate class in the public schools of the country would be laughed to scorn.

When the utter nonsense of this had become apparent there was developed the beautiful theory that by reason of prohibiting foreign importations our domestic production would be so stimulated that competition among the home manufacturers would reduce prices to the home consumer. The people listened and pondered; they said, "Now, that seems reasonable; that is assuredly economic wisdom; at last the touchstone has been located; the economic truth of the ages has been discovered; the secret of the sphinx is ours." They voted the Republican ticket, the Republican leadership smiled and hoisted the tariff some more. The masters of the Republican Party chuckled in their glee. The people settled down to await the coming competition, the farmer plowed and the carpenter drove his nails, the shoemaker plied his awl and the blacksmith wrought his daily task while the mothers of the land chanted their babies to slumber and to dreams with the new-found melody of—

Bye o' baby, don't you cry,
The tariff'll cheapen things by and by.

The days passed and the years went by, and the consumer began to get impatient; he began to look about him. Some things were cheapened indeed, but when he compared them with world prices he found they had not cheapened enough. He sought for that promised competition and suddenly awoke to the fact that there was none. The day of the trust had come, and we were informed that the old aphorisms about competition were antiquated and absurd in this modern day of Republican economics. "Why," they said, "competition is ruinous; combination is the only hope of industrial integrity."

Given a tariff high enough to prevent the influx of foreign-made goods, the domestic producers proceeded to organize themselves into divers corporations; then these corporations proceeded to organize holding corporations and transfer the stock, which in most instances was pumped full of water, to these latter, in trust, and the "trustees" fixed the prices, often at both the buying and selling ends of the line, and with competition at home checked and foreign competition shut out by the tariff wall, the consumer stood "at the mercy of Tiberius."

Not only this, but the consumer awoke to another fact—that is, that the producer, whom he was taxing himself to favor, had one price upon his products for home folks, whose taxes he was getting, and a lesser price for that foreigner who once—in his dreams—paid the tax.

His indignation began to creep up to the danger point, and once again the ingenious spirits in the Republican Party turned to their splendid imaginations for inspiration. It came. "'Tis true," they said, with an affectation of candor, "that the tariff is no longer necessary as a war measure; 'tis true that the infant industries are full-grown bearded men; 'tis true we were mistaken about the foreigner paying the tax; 'tis true, 'tis pity, and pity 'tis 'tis true' that we were deceived as to the

efficacy of domestic competition; but, O citizens of the Republic, we must maintain the tariff for the benefit of American labor."

I heard of an American laborer who sought to buy a machine and wrote to an American manufacturer for the price. A stupid clerk by mistake sent him the export instead of the domestic price list. He did not notice this, and was surprised and delighted to find that he could obtain it cheaper than his neighbors had purchased by almost half. He sent in his order, and by return mail was advised of the error, and the domestic price was quoted nearly twice as great as that which it was proposed to charge the man abroad. Quite naturally he was puzzled, and he went to his protectionist Representative in Congress for an explanation. "Why is this?" he said. "Why should I be compelled to give twice as much labor—for my labor is my sole purchasing power—for that machine as the foreigner gives?" And his Representative responded, "Why, my dear fellow, you must do that to protect American labor." [Laughter.]

When Madame Roland was being led to the scaffold she gazed about her, and, divining the sordid and selfish ambitions which, in the name of liberty, were sending her and others to their deaths, exclaimed, "O Liberty! Liberty! how many crimes are committed in thy name!"

Looking around us at the sordid selfishness and grasping greed which has held this Republic with a strangle hold for near half a century, are we not tempted to copy her pathetic remark and exclaim, "O American Labor! American Labor! how many crimes are committed in thy name!" [Applause on the Democratic side.]

The grim humor of the situation began to dawn upon the American consumer, and the masters, quick to catch the first note of alarm, took up the American-labor cry, the full-dinner-pail argument, and to cap it all cried out in anguish: "Oh, men, think of all these things and think then of that awful panic of 1891, induced by the Democrats going into power two years after that, in 1893!" I am waiting with some interest to see how long it will be after the Democratic victory, which is coming this year, before Republican orators will be charging the Democratic Party with responsibility for the Roosevelt panic of 1907. [Applause and laughter.]

"You shall have relief," they said. "We can not touch the tariff, it is true, because of labor, but rely upon the Republican Party. We will find a way. Assuredly, oh, most assuredly! A new figure has arisen in this world; within him are blended all the virtues and all the wisdom of the ages. Constitutions are nothing in his sight; before his tread all barriers fall; at his behest the rivers will run from the seas; the laws of supply and demand be restored or discontinued, as he may choose; the sun will stand still while he fights the battles of the Lord, and within four brief years you shall see the millennium; it is believed that T. Roosevelt may himself hold the proxy of the Messiah and represent him at the second coming. Who knows but that he is himself the Messiah reincarnated? He has not denied it. [Laughter.] At any rate he will punish these cruel malefactors of great wealth who have been guilty of exercising the business opportunities which our laws, by their favoritism, have offered them. Will you not, Teddy?" "Will I," said Teddy, "will I? Watch me; I shall be delighted." [Laughter.]

We have observed, of course, that Mr. T. Roosevelt, amid all his multitudinous activities, did not touch the tariff. Mr. Roosevelt was a wise man in his day and generation. He was able to assail "My dear Harriman," but the tariff barons—not he. He unloaded the tariff proposition upon the expansive shoulders of the good-natured gentleman whom he selected to succeed him—for one term.

Mr. Taft having been informed by Mr. Roosevelt that he was to take his place laughed in his good-natured way and went forth to make some speeches in 1907. The mutterings of the people had become a rumble. "There must be a revision of the tariff in the interest of the consumers," they said. "Why certainly," responded the wise men of the East. "Why certainly," responded the leaders of the Republican Party. The gentleman from New York, Mr. SERENO E. PAYNE, was then the chairman of the Committee on Ways and Means, to which tariff bills are referred in the House. He is not now, but he was then. [Laughter and applause on the Democratic side.] "Why certainly," said Mr. PAYNE, "we will revise the tariff"; and sometimes I think he really meant it. The distinguished Senator from Rhode Island, Mr. Nelson W. Aldrich, was then the chairman of the Committee on Finance, to which tariff bills are referred in the Senate. He is not now, but he was then. Under the Constitution revenue measures must originate in the House, but the Senate can amend them. I can not positively vouch for it, but I have no doubt that Mr. Aldrich looked over the Senate and carefully took note of those who had been and were sure to be elected as Senators to the Sixty-first Congress, and then, "Why certainly," said Mr. Aldrich, "there must be a revision—a revision—of the tariff; strange I had not thought of that before; why certainly," and he smiled. He met Mr. Taft and they talked awhile, and they both smiled. I imagine, also, that Mr. SMOOT, of Utah, not then, but soon to go, upon the Senate Finance Committee, met them and they all three smiled. "Why certainly, certainly; Calpurnia hath had her sweeter dreams, and we must revise the tariff."

Mr. Taft, as I have said, went forth to make some speeches, and in the very heart of New England indicated that he favored revision downward. New England smiled and smiled and smiled.

The Republican convention met and adopted a platform. Had the voters read it in the light of past experiences I do not believe they would have permitted themselves to have been again deceived by campaign promises and stump-speech platitudes. When I was a schoolboy and studied logic I remember something of a figure or a principle called "reductio ad absurdum." The Republican Party's platitudes often reminded me of it, but never was it brought as forcibly home to me as when I read the tariff plank of the Republican platform of 1908. If it had been serious it would have been ridiculous; being not serious, it was a criminal trifling with the hopes and aspirations and rights of a generous and patient people. It declared for a revision, but with no promise of reduction. It said the protective principle must be maintained, and that it could be best maintained by laying a duty sufficient to equal the cost of production at home and abroad and maintain a reasonable profit to the American producer.

For sheer absurdity, among all the utterances of political platforms since parties began, I am committed to that.

Difference in the cost of production at home and abroad, forsooth! Why, gentlemen, Mr. Charles Emery, of that famous Tariff Board upon which the President relies, speaking at a banquet of the American Association of Woolen and Worsted Manufacturers in New York some time ago, is reported to have said:

> There are certain things that are very difficult to get, and one thing that, according to the platform of the Republican Party—and, incidentally, that does not mean anything to me except that I have been given the job according to that platform—is to try to get the cost of production. I thank you all, gentlemen, that you did not laugh. I frankly say right here that this idea of settling things on cost alone is all nonsense.

If cost could be obtained, what country would you take as the standard for the cost abroad in order to calculate the difference? Germany, Japan, China, India, with all their different standards of labor? And, having settled upon a country, what factory in that country and in this would you make the basis? What elements are to be considered?

And a guaranty of "reasonable profits," indeed! What right, legal or ethical, has a party to take this Government of a whole people and pledge itself to use its taxing power so as guarantee to individuals a reasonable profit? [Applause on the Democratic side.] And yet I know some Republicans who smile at the Socialist as a dreamer or a crank.

I claim no powers of divination, but I am going to venture one prophecy, and that is that in the Republican platform to be adopted at Chicago this year you will not find that expression about guaranteeing "a reasonable profit." The gentleman from New York [Mr. PAYNE] on yesterday had an opportunity to present that expression of the platform to this House in a legislative way. He made a motion to recommit the sugar bill with instructions, and the instructions were:

> To report the same back to the House amended so as to eliminate from the sugar schedule the Dutch standard color test, the differential on refined sugar—

Which two things, by the way, he might have eliminated in the Payne-Aldrich bill, but did not—

> provide for a tariff on sugar that shall measure the difference between the cost of production at home and abroad.

But not one word did the gentleman from New York have in his motion about guaranteeing the "reasonable profit."

Has the gentleman from New York [Mr. PAYNE] in this short time deserted his party platform of 1908?

But I digress. In 1908 the people trusted them once more. Mr. Taft and his party were triumphant, a special session of Congress was called, and the farce began. The history is so recent I need not repeat it.

The farce ended August 5, 1909, when the President attached his signature to the Payne-Aldrich bill and accompanied that signature with a public apology to the people of the United States. The people accepted the bill because they had to, but they declined to accept the apology. Congress adjourned, and the President started shortly afterwards on that first funeral march to the western coast. He stopped long enough at Winona,

Minn., to apologize again. I have not his exact words before me, but I can quote them in substance. He said the bill was the best tariff bill ever written. He did not smile. Neither did the people. They ha-haed, and when November, 1910, came, the earliest opportunity presented, the worm turned and a mighty people arose in their wrath and swept from power in the only positions they could then reach—the House of Representatives and certain seats in the Senate—that party which had deceived them so often with its hypocritical cant and its disingenuous pretensions.

Mr. Taft said something else in that Winona speech. I give him credit for being a candid, honest man. Discussing the woolen schedule, he frankly admitted that it failed to measure up to the platform promises of his party, and he made the astounding statement that when an effort was attempted to give the people relief from the exactions of the woolen tariff that it was found that the interests in the Republican Party brought about by a combination of woolgrowers and woolen manufacturers in 1867 was so strong that his party could not stand against it; that they dictated terms to it and compelled the woolen tariff to stand, with the alternative of no legislation at all if they touched it. [Applause on the Democratic side.] How pitiful! The party of Abraham Lincoln held up with a sandbag and forced to stand and deliver! This upon the authority of the first citizen of the United States. Forced to violate its plighted faith, forced to disregard its solemn word.

Mr. Chairman, I am a believer in Democratic principles. I am a partisan, but I try to be a polite one. Notwithstanding my opposition to the fundamental principles of the Republican Party, I recognize that its has chapters in its history of which the future will take favorable note; but because I am a patriot before I am a partisan I say to you that I hung my head in shame when I read and realized the truth of that expression of the President. [Applause on the Democratic side.]

It does not reflect upon the honesty of the masses of the Republican Party or of the people of the United States, because, let it be said in candor, they did not know it. Those interests had obtained their strangle hold unawares to them. But they know it now. The President himself has vouched for it. What will they do? I think I know what they will do. They will arise in their wrath and smite as they have smitten. They will cleanse the temple of this Republic.

But there is more to the history. In 1910 a people, indignant at their betrayal, turned to the Democratic Party and elected a Democratic House of Representatives, as well as a number of Senators. That Congress was called in special session and met in April, 1911, and a Democratic House proceeded with the revision of that schedule which the President had denounced. [Applause on the Democratic side.] We remembered what the President had said about the woolen schedule, and at the earliest opportunity there was laid before him by a Democratic House and a close Senate a new woolen schedule, moderate in its character, conservative in its items, but constructed so as to preserve the revenues and at the same time bring relief to the people. We demonstrated that there was a party which the woolen interests could not control and make to eat from their hand. That bill, the just answer to a people's just demand, went to that President who had freely acknowledged the violation of faith by his own party on that schedule, and he vetoed it upon the sole ground that he himself was ignorant. He would not take the judgment of the Representatives fresh from the people, commissioned to do what he regretted his own party had not done, notwithstanding they had all the information and more than his party had when it framed the Payne-Aldrich bill. He must wait until Calpurnia had dreamed again. He must wait for the cunning genius of a tariff board to flower and fruit, though he needed it not when he signed the Payne bill.

And this was repeated as to other matters and other schedules of the tariff.

Mr. Chairman, I should gladly support this excise bill now before us upon its own merits, even if it is were not necessary as a measure to supply the revenues that will be lost to the Government if sugar be placed upon the free list, because I believe that it is essential to the preservation of the institutions of Government in this Republic that there should be laid in some manner or in some form a direct tax, a tax which the people will feel and which they will realize they are paying.

I believe that one of the dangers to our Federal Government's stability is that under our present system the people do not realize when they pay the Federal taxes. The hand of the taxgatherer is hidden. We know quite well when we pay tribute to State or county or municipality, because we pay directly, hand over the cash and receive nothing but a tax receipt in return. The Federal stipend is wrapped up in the coat or the blanket that you buy for yourself, the dress you purchase for your wife, the shoes for your child, concealed in the plow and the hoe and the ax, in the food which the laboring man buys; and the trouble of it is that the consumer pays this tax whether what he buys is imported or made in this country. If it is imported the Treasury gets the tax. If manufactured here the manufacturer gets it.

My friends, the growth of socialism in this country within recent years has been such as to cause all thoughful men to pause and ponder. Even I can remember when socialism was regarded as an incoherent, meaningless passion; but the vote has grown by leaps and bounds, and to-day a representative of that doctrine sits in the House of Representatives of the United States. I do not profess to understand the creed in all its refinements and ramifications, but I understand in a general way that one of its principles is common ownership of property; that no man shall own anything but all men shall own all things. That is not of itself a popular doctrine; there is a principle implanted in the heart of every man which leads him to wish to be able to say, "This is mine, the fruit of my labor, the increment of my toil." Why, then, has the party of that doctrine gathered such momentum? Perhaps it is true that the rapid introduction into our population of a foreign element, some of whom know nothing of, and many of whom care nothing for, our constitutional limitations and restrictions has been in part responsible.

But more than all else I believe that it is due to the fact that men have looked about them; have seen the inequalities imposed by the special interests that have so long been in control of the taxing power of this Republic; have seen the great forces of the Government manipulated so that one man might live in the sweat of other men's brows; and restless and discontent, disgusted with such legislative legerdemain they have rushed to the other extreme and embraced a doctrine foreign to our governmental hopes and aspirations.

If a system of direct taxation such as is proposed by this bill be established the citizens of this country will feel Federal taxation, and when they feel that taxation they will begin to guard Federal expenditures.

I think it was Edmund Burke who said that if you would hide the hand of the taxgatherer in the intricacies of a tariff you could tax even an Englishman down to his last loaf of bread and his last rag of clothing without evoking protest, and that philosophy holds good, in a measure, even unto this day.

Because the people of this country have not realized when they were paying Federal taxes extravagance in Federal expenditures has resulted. They have come all too often to regard an appropriation from the Federal Treasury as so much "picked up," not as so much spent. The popular thing for a member of a State legislature to do is to save in expenditures. Why? Because the State tax is a direct tax. Sometimes it seems that the most popular thing a Representative in Congress can do is to get an appropriation. Why? Because the Federal tax is indirect and the constituency, though it is composed of the same people represented by the State legislator, does not realize that it is paying.

But they do pay, Mr. Chairman. Aye, sir, not only do they pay to the Federal Treasury, but for every dollar which they pay through the tariff laws into the till of the Treasury they pay from $5 to $7, according to best estimates, that go not for governmental purposes, but into the pocket of some domestic producer.

Not only has this indirect system of taxation resulted in extravagance in Federal expenditures, but it has resulted in the centralization of governmental powers in the Federal entity.

Why, sir, the tendency is constantly growing for the States and local communities to shift upon the Federal Government duties that they should perform. How often are we urged to support Federal appropriations for the construction of highways?

How often does this demand come from citizens who would not think of voting to bond their county for that purpose? Why? The county tax is direct; the Federal tax is indirect. And yet if the Federal Government did it, it would cost from two to three times as much as for the community to do it. And so of many matters.

Mr. Chairman, this is a good bill; it is a splendid bill; it is in accord wth soundest governmental principles and best and bravest Democratic policies. The criticisms of it seem to me to be almost puerile. The gentleman from Ohio [Mr. LONGWORTH] thinks it will not reach men like Mr. Carnegie or Mr. Rockefeller. I think he is mistaken; but suppose he is correct; suppose, under the decision in the income-tax case—the Pollock case—this bill can not reach them. Shall we for that reason refuse to use our legitimate powers to tax others who are able to pay? For shame!

I believe the people will approve this bill, and will indorse our party for proposing and passing it. Mr. Chairman, the

Democratic Party has wandered long in the wilderness. Internal dissensions have dissipated our forces and disheartened our followers, yet, turning neither to the right nor to the left, but holding fast to the faith of the fathers and walking ever in the light of living issues, we have moved out from the swamp with its tangled thickets and its fetid waters, and standing to-day upon the mountain top we gaze with rapt vision into the promised land. We have the House of Representatives now, and I believe the people of this country indorse its actions and approve the profert of intention which it has made and that next November they will say unto our party—

Well done, good and faithful servant. Thou hast been faithful over a few things; I will make thee ruler over many things. Enter thou into the joy of thy Lord.

[Applause on the Democratic side.]

Mr. PAYNE. I yield 20 minutes to the gentleman from Kansas [Mr. JACKSON].

Mr. JACKSON. Mr. Chairman, I certainly shall not attempt to flatter myself by thinking that what I shall say upon this question will be of any particular interest to the Members of this House or to the country; but I wish to say a few words upon it because I regard the bill, connected with its companion piece, as the most stupendous piece of demagoguery and fraud that has ever been attempted to be perpetrated upon the American people in the name of American politics. [Applause on the Republican side.]

I characterize it as possessing the element of fraud, as it pretends to relieve the people from taxation, but, in fact, adds to their burdens. I call it demagoguery because it will be called before the public an income tax, when in fact it is not. It is wholly unscientific and moves away from that class of wealth a true income tax would reach. By its terms it exempts corporate and idle wealth and the swollen fortunes of the country. Can the "revivified" Democratic Party afford to stand for a makeshift measure which will discourage the adoption of a true income tax at a time when we need only the ratification of the constitutional amendment by six additional States to make it effective, and we have two new States ready to reduce the required number to four?

Mr. Chairman, I do not think any gentleman on that side of the House can charge me with being extremely partisan.

Mr. HUGHES of New Jersey. Oh, no; no.

Mr. JACKSON. The gentleman may well repeat out of order, "Oh, no; no"; but when the gentleman has stood here and voted against the measures adopted by the oath-bound caucus on that side of the House as often as I have voted for measures not approved by our caucuses and conferences, he may then shake his gory locks at me for being a partisan.

The truth is that I have promised myself, at least, that I shall speak out against fraud and demagoguery wherever I find it, whether it be in our party or in your party. I have long ago made up my mind that the statement so often heard, especially on that side of the House, that this country is a government of political parties, is not correct. This Government is, or ought to be, a government by the people; and I say to you, Members of this House, that, taking the last 20 years of the history of this country, every great national question that has received the sanction of Congress or of any considerable number of the State legislatures has come about by the organization of the people of this country almost independently of the political organizations.

I do not mean to condemn political organizations by that statement, but I mean to say that political organizations follow and do not lead in expressing the public will in this country, and so I deny the statement that we have a government of political parties.

I have voted for every tariff bill that has been brought out by the Ways and Means Committee on that side of the House, with the exception of the chemical bill and the sugar bill. I did not vote for the chemical bill because I regarded it as an honest Democratic measure. It was not an attempt to reduce the tariff; it was rather an attempt to raise it by levying duties upon noncompetitive articles, and therefore I voted against it. I voted against the sugar bill because I believed that you gentlemen on that side did not believe in it. There is scarcely a single Member on that side of the House who would have voted for it if he thought there was any chance of its becoming a law. I voted for the other bills because there was an honest difference of opinion as to whether or not the protection carried by them would destroy American industries. Indeed, the distinguished chairman of the Ways and Means Committee, who, I see, has now left the Hall, on every occasion made the statement that the duties carried in these bills equaled the difference in the cost of production at home and abroad, making this statement, I assume, in the joy of that new-found definition of his of a tariff for revenue. Taking his word for it, having the same confidence in a Republican Senate and a Republican President that the Democratic Party always evidences when confronted with a real responsibility, I voted for the bills in the hope that a Republican Senate would reframe them to make them into fairly acceptable tariff bills.

But here, gentlemen, we are face to face with this bill and its sister bill, that proposes not to place a duty upon a revenue basis, but absolutely to destroy the public revenues and at the same time to destroy one of the great American industries. Three or four facts stand out undisputed in all the investigations which you gentlemen have conducted here and in all of the information which has been gathered and in all the discussion of these two bills. The first is—

(*a*) That we are producing through the beet-sugar factories and the cane sugar of Louisiana fully one-third of all the sugar that we consume in the country.

(*b*) The next fact admitted by the Hardwick investigation and the Ways and Means Committee is that this is the only independent sugar industry that exists in the country or in the world, and that this constitutes the only competition that we have by which prices may be reduced.

(*c*) It is admitted that this competition did within the last year serve to lower the price of sugar to the American consumer almost 1 cent per pound.

(*d*) It is admitted but for this competition the price of sugar in this country is largely controlled by the Sugar Trust, and that control failing at any time the fixing of prices passes to the great foreign syndicate, which, by means of the Brussels conference, controls the prices of sugar on the world's market as certainly as does the board of directors of the Sugar Trust control the affairs of that corporation. Still, back of this combination stands Russia, by her bounty fed and highly protected pauper-labor industry, dominating the sugar market, as does Argentina the coffee market, of the world.

Now, if that is true, I say to you that this sugar bill is a fraud and a deception, because you hope to go out with it and purchase the votes of the American people under the promise of cheaper sugar when you must know that when this home competition is destroyed that sugar will not be lower than it is now, but will be higher.

Is it not clear that by free sugar in this country you place it in the power of the European syndicate and Russia to cover into their treasury the duties you propose to remove from American importations? This was England's experience, and she was forced to restore her duties to protect her own treasury. It had been our own experience in the coffee trade. The gentleman from Nebraska [Mr. NORRIS] has presented at this session of Congress an almost unanswerable argument that we shall be compelled to restore a duty on coffee to prevent our people from paying the expenses of the Argentina Government exacted through the high prices of coffee by the Government monopoly of the Argentina Republic. The remedy for this condition of affairs, the way to bring cheaper sugar for the American consumers, is pointed out by the greatest sugar statistician of the world, a man who all admit to be disinterested and fair and able. In his evidence in the hearings Mr. W. P. Willet said (pp. 3556–57):

As showing the ultimate effect of home production equal to or surpassing home consumption, I call attention specially for earnest consideration to the fact that in 1910 we reached this desired consummation within 74,000 tons, and as a result we were almost independent of Europe; so much so, in fact, that we got our supplies from Cuba at over one-half cent per pound under world's prices, during which time one man (Santa Maria) was carrying on a big bull speculation in Europe in which we would certainly have been involved but for this limited amount we required that year. In 1911 the Cuban crop fell short of 1910 by 320,898 tons, and we required 212,182 tons from abroad to complete our supplies; hence we were involved in the world's prices in 1911, and the result was a hue and cry against the high prices of sugar. I am not making an argument, but am simply pointing to the facts that appear to me to make the consideration of the increase in our local supplies of greater importance in legislation than a reduction of duties beyond certain limits, those limits to be such as will positively exclude all sugars outside those of our States and dependencies.

In all these analyses I reach the same conclusion—that to decrease the price of sugar to the consumer, increase the domestic production as rapidly as possible (p. 3978).

The domestic industry in the western part of the country represents an investment of over a hundred million dollars, made under the promise not alone of our party, but of your party, because do not forget that under the free trade in sugar which you gentlemen seem to be so proud of throwing in the faces of certain leaders on this side, when that condition of affairs existed your party put a duty of 40 per cent on sugar.

Now, then, following that line of legislation, not only has a hundred million dollars been invested in this industry in this country, but hundreds of thousands of American farmers have taken their effects and property and camped under the shadow of irrigation works and gone into the business of producing sugar to feed the American people.

Now, if there is anything in this country that deserves the praise and the pride of the American people it is the hopefulness of the western farmer. In a few weeks he will take his plow from out of the shed, if he has any shed, and will bring into action the farm implements of his business, and step forward with his heart full of hope—God bless him—to produce another crop. Does any man on this floor think that a single acre of sugar beets will be planted this next year if your bill becomes a law? You told us that the price of sugar went above 7 cents last year because of the failure of something like a quarter of a million tons of sugar in Cuba. What kind of a price would sugar be next year if it were given out that the great product of the western fields in this country of ours were to be cut off next year? It permits of not a shadow of doubt that sugar, under such circumstances, would be higher and not lower.

But, Mr. Chairman, I refuse to consider this subject alone from the viewpoint of saving a few cents per year to each American family in the purchase of sugar. The interest of every American citizen is broader than that. The production of 600,000 to 700,000 tons of sugar to continental United States involves large financial transactions and the employment of many laborers. To meet these expenses the bankers of the communities where such industries exist have stood by the farmers and factories to assist them in meeting temporarily these expenditures. The destruction of the industry means an unsettling of credits that may threaten the very financial quiet and stability of the country. Absolute free trade in sugar also means great disturbance of the industry in our island dependencies and Cuba and a lessening of their capacity to buy and consume American goods.

This is a trade, consisting in the main of flour and meats, in which the West is directly interested. I wish to set forth here a view of Porto Rico Progress. On February 1 this prominent Porto Rico paper stated the following editorially:

The consumer asks himself, "How does the tariff affect me?" It increases the daily cost of his sugar one-half cent. But does the American consumer know that, practically due to the tariff on sugar alone, a market for American goods has been developed in Porto Rico which will amount to $50,000,000 a year in another 12 months? This is where the great factor, human nature, otherwise known as selfishness, enters the equation.

Since 1898 (the year of the American occupation), the sugar industry of Porto Rico has increased from about $2,500,000 to $24,000,000. In the same period the purchases of Porto Rico from the United States have increased from about $1,500,000 to $34,600,000. In other words, the production of sugar in Porto Rico has become 10 times greater, and our purchases from the mainland are 22 times greater.

One-third of the wage earners in manufactories in this island (according to official data furnished by the Census Bureau) depend upon the sugar and molasses industry. The number of persons dependent upon each wage earner for support and the number of business establishments and minor industries which owe their existence to the sugar business are not known. To say that 50 per cent of the population is directly and vitally interested would be conservative. Any alteration in the tariff on sugar will immediately impair the purchasing power of 600,000 people who now buy from the United States and will ultimately affect 600,000 more.

In 1901 we bought from the United States $7,000,000 worth of goods. Last year we spent in her markets $34,600,000. Next year, if the tariff is not changed, the figure should be $50,000,000.

If the tariff on sugar is eliminated, the consumer in the United States may possibly save $1.25 a year, but the business men of the Nation will lose in the end half of their market in Porto Rico, meaning an annual loss of about $25,000,000.

Apart from the fact that the American consumer may get his sugar for $1.25 less a year, no one will benefit by putting sugar on the free list so much as Cuba. She now buys her machinery in the cheaper markets of Europe. She will continue doing so unless absolute free trade is granted, and this is too remote a possibility to be considered. In short, Cuba will fatten on the American sugar market and will spend the profits in Europe. Porto Rico, on the other hand, spends her earnings in the United States.

It is unnecessary to elaborate on this argument. Human nature is the same the world over, even in the United States Congress; and that supreme commander of human actions, Selfishness, will doubtless govern in this case as in all others.

The only point to be borne in mind is that by taking away the protection given us by the sugar tariff the United States will seriously injure one of her best customers. Porto Rico buys more from the United States than Russia, Spain, Austria, Japan, Turkey, and all of the East Indies. The United States sells more to this island than she does to any other country of South and Central America, except the Argentine. Porto Rico occupies twelfth place in the list of the markets of the United States. Her purchases from the mainland are greater than those of any other noncontiguous territory, exceeding those of the Philippine Islands by $10,000,000, Alaska by $9,000,000, and Hawaii by $7,000,000.

As a cold-blooded business proposition, will it pay the United States to throttle Porto Rico to benefit Cuba?

What is true of Porto Rico is also true to a large extent of Hawaii and the Philippines. While the effect on American trade with Cuba is not so direct as with Porto Rico, the 20 per cent preferential tariff, which reciprocity with that island gave her, has caused our trade to increase as rapidly in volume as with Porto Rico.

So the blow of destruction is not alone at the industry of the beet-sugar farmers of the West, but also at the market and the prices of the western farmer who produces wheat, flour, and meats.

There are some amusing things about this legislation. One of the most amusing things, gentlemen of the committee, is the argument that has been made on that side of the House that you are doing this to relieve the American people of taxation. I sat here and heard the very interesting and eloquent description of the eminent chairman of the Ways and Means Committee of the great wrong that was done by the British Government by conferring upon some earl or some one else the privilege of taxing the right to do business in a certain market in London. You remember that, do you not, how eloquent he waxed about the wrong theory of government, that would tax the people by giving anyone the privilege of taxing the right to do business upon a certain market?

Then he proceeded to liken the protective duties or the revenue duties of America to the same thing as taxing the right to do business in the American markets. He then said, "We are going to take the $53,000,000 of taxes off the American market, away from the bellies of the American people." Mr. Chairman, where is he going to put the $53,000,000 tax? Can it be possible that this same man proposes to put the $53,000,000 of tax on the right of every man, every individual in the United States, to do any business at all? The proposition is proposterous and positively humorous. Is it wrong to tax the importer to do business in America? Then certainly it is wrong to tax an American citizen on the right to do business at home. [Applause.]

Mr. Chairman, there is a good deal of demagoguery and nonsense indulged in in caviling at the revenue taxes of this Government raised by duties upon imports. So far as I am concerned, I am a protectionist; I have never pretended to be anything else.

I regard the doctrine of American protection as one of the cardinal principles of taxation in America. It has existed for many years, and the same gentleman who described this pathetic picture in London at the beginning of the debate upon the sugar bill before he sat down said that we must continue to collect a large amount of our taxes from the customs. It is not only a cardinal principle of the American system of taxation and of every party in this country, but of every country in the world. The time has arrived in the history and development of commerce predicted long ago by that great statesman of England, Lord Salisbury, when he said that the future commerce of the world was to be a war between tariffs. That time is here, and no subject could better illustrate it than this subject of the tax upon sugar, because we are confronted with the fact that every great government of the world, including even free-trade England, recognizes it as a fit subject for taxation. Oh, but gentlemen say we are going to take off this $53,000,000 of tax, because you levy it back on the people. Not only that, but it so raises the prices of commodities that you treble it and make it $150,000,000. Let us see how you propose to do it. You propose to do it by taxing the people who do business in this country with that same $53,000,000. Will the man who imports sugar pay the tax? Of course he will; not by this bill perhaps, because he is already taxed under the Republican bill, which provides for a corporation tax, but if he is not a corporation he will be taxed under this bill. Will the man who sells sugar at wholesale be taxed under your law? Yes. Will the jobber who sells it to the retail merchant be taxed? Yes, if the business is a corporation or has a net income of $5,000 or more. Then, in the name of common sense, what is to prevent all of these men from putting this tax back on the commodities which they sell in their business and thus making the consumer pay for it all? You have just listened here to a very able and eloquent speech by the gentleman from Iowa [Mr. PROUTY], who shows you how all of this tax, whether levied by internal revenue or by customs duties, is eventually placed back upon the consumer. Will there be any difference in this tax and the tariff tax?

Oh, but you say the tariff is only paid by the man who imports and that he adds the tariff and that brings all local prices up to the same level with the foreign price with the tariff added. But you do not propose to tax everybody under this law. It is only the large concerns, the concerns of the country which fix the prices, the wholesale houses, the great department stores, the mail-order houses, and things of that sort which make the prices. They are the concerns who are to pay this tax unless they are incorporated. I should like you to tell me what would prevent them from putting this tax back upon the consumer, and when they do, do you think the small dealers will offer their goods at a lower price than the big concerns? And if you do, I will be willing to support your law. So I say that your scheme of relieving taxation is absolutely deceptive, and

you would not be for it if you knew that you could pass it. Not only that, but the very distinction between a direct tax and an excise tax rests on the very proposition that the direct tax can not be shifted, while the excise tax and the indirect tax can be shifted. I do not ask you to take my word for it. I want to read to you here from the language of this Pollock decision.

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

Mr. PAYNE. Mr. Chairman, I yield 10 minutes more to the gentleman.

Mr. JACKSON. This is a quotation from the eminent statesman, Albert Gallatin, for whom I believe Democrats have some respect. This is what he said in his sketch of the finances of the United States, published in November, 1796:

> The most generally received opinion, however, is that by direct taxes in the Constitution those are meant which are raised on the capital or revenue of the people; by indirect, such as are raised on their expense.

Again, the court itself in this decision said:

> Ordinarily all taxes paid primarily by persons who can shift the burden upon some one else, or who are under no compulsion to pay them are considered indirect taxes, but a tax upon property holders in respect of their estates, whether real or personal, or of the income yielded by such estates, and the payment of which can not be avoided, are direct taxes. (P. 558.)

You propose to sustain this law in the Supreme Court upon the proposition that it is a tax upon the expenditures or the expenses of the people and therefore one which can be shifted from the payee to some one else, and yet you say that you are relieving the people from taxation. There is a difference in the operation of this law and in the operation of a tariff law, and I will tell you what it is, in my judgment. The hearings before us on the two bills show this state of affairs, that in England, where they have only 40 per cent tax on sugar, the price of sugar has been eight-tenths of a cent less, on an average, per pound than it is in this country where we have a tax of 1.90. How do you escape the conclusion, then, that the exporter, or some one else than the consumer, pays about half of that tax?

Mr. WARBURTON. Mr. Chairman, I would like to ask the gentleman a question.

Mr. JACKSON. In a moment. Then the difference is this, that we do have some opportunity of shifting a tax that is levied as a customs duty on to some one else than the consumer, but when we levy an internal-revenue tax, such as we do upon tobacco and liquors, there is no opportunity to do it, but the consumer must pay the tax. So you have taken off the $53,000,000 of tax, half of which—according to the figures I have just quoted, and they are your figures—is not paid by the consumer, and you have put it back again in the form of a tax all of which must be paid by the consumer.

Mr. WARBURTON. I find from the English Statistical Abstract that the price of refined sugar plus the tariff averages about $1.70 per hundred. I would like to know where the gentleman gets his figures.

Mr. JACKSON. I quoted the figures from the report. The gentleman will find them there. I quoted them from the majority report. The same figures have been quoted over and over again by both sides in this debate. There can be no question about their correctness. Here is what Mr. UNDERWOOD himself says:

> In England refined sugar in bond is quoted for 1910 at 3.706 cents; in Germany, 3.640 cents; in Austria, 3.800 cents; in France, 4.070 cents; and in the United States, 3.532 cents. The result is that sugar is quoted in bond in the United States for the year 1910 cheaper than untaxed sugar in bond was quoted in any of the great European countries that produce sugar.

Mr. BATHRICK. Mr. Chairman, I would like to ask the gentleman if in his discussion of where this tax will lie he is not overlooking the fact that under the law proposed and under discussion this afternoon the tax will not be placed upon those people who have under $5,000 a year income. Is that not true?

Mr. JACKSON. Yes, that is true; and I am glad the gentleman called my attention to that, because I want to discuss it now. The gentleman calls my attention to the fact that those who have an income of less than $5,000 per annum are exempt from this law. Of course, the gentleman will understand that I have just tried to explain why I think everyone who buys sugar will pay this tax.

Mr. BATHRICK. The gentleman stated that the wholesaler, the manufacturer, and the importer would pass this tax down in the price of sugar to the consumer. Is that not true?

Mr. JACKSON. I did.

Mr. BATHRICK. Does the gentleman suppose that the wholesaler will pass it all down and charge it up, notwithstanding the fact that he handles many other lines of goods?

Mr. JACKSON. Oh, I did not mean that.

Mr. BATHRICK. Consequently not so much will be passed to the consumer as under the tariff, would it?

Mr. JACKSON. I think that is true as to the price of sugar alone. I am glad the gentleman asked that question, because it permits me to complete my argument upon that subject. Of course, the tax now being distributed over a number of articles, instead of upon sugar alone, the entire tax will not be placed upon sugar, but it will be placed upon all the articles the merchant handles, and therefore upon all the articles which we buy, and the people will pay it just as they now pay a part of it.

It will be handed along to the banker. It will be handed along to the dealer in clothing and other goods; to the dealer in groceries. When the outcome is figured up the American people will have paid this tax just the same as they pay any other revenue or customs tax. It is perfectly idle to argue that the tax of every section of the Payne-Aldrich bill is paid by the consumer, except the tax levied by section 38 of that law.

Mr. BATHRICK. Will not the gentleman concede that a tax was levied on the American people far in excess of the revenue collected by the tax on sugar? Was not the tax levied on the American people just in that proportion that the rate bears to the consumption?

Mr. JACKSON. I am perfectly willing to concede that the tariff is too high.

Mr. BATHRICK. The rest of the tax will be on the backs of the American consumer, if you take this tax off, even though it passes from the wholesaler down to the consumer.

Mr. JACKSON. That depends entirely on how much more tax you put on. I am willing to concede the tax on sugar is too high. I hope, and I believe the gentleman and his party hope, that the Republican Senate will send the bill back here with a duty of 1 or 1½ cents per pound on sugar.

Mr. BATHRICK. I do not hope so at all. I am for free sugar.

Mr. JACKSON (continuing). Abolishing the differential and the Dutch standard. I will vote for it, and I hope the gentleman will vote for it, because then he would show his sincerity before the American people in advocating a lower tax, and one that will mean lower prices to the consumer and at the same time sufficient protection to our domestic sugar industry.

Mr. BATHRICK. I will vote for the best I can get, and as near to it as I can get.

Mr. WILLIS. Will the gentleman from Kansas [Mr. JACKSON] permit me to ask my colleague from Ohio [Mr. BATHRICK] a question?

Mr. JACKSON. Yes.

Mr. WILLIS. I wish to ask the gentleman from Ohio [Mr. BATHRICK], my colleague, whether he is also in favor of free wheat? I understand that he voted against reciprocity, as I did, upon that question.

Mr. BATHRICK. Yes; I certainly would do it if it redounded to the benefit of the people in the State and would make flour free also. I understand my colleague voted to prevent flour from being free.

Mr. LONGWORTH. Will my colleague include in his question free wool? I would like to be enlightened.

Mr. WILLIS. I am coming to that. My colleague is saying that he is in favor of free sugar because he thinks sugar will be cheaper to the consumer. Is my friend from Ohio in favor of free wheat on the same theory?

Mr. BATHRICK. The bill you voted for puts flour on the free list.

Mr. WILLIS. But I voted against reciprocity and also the free-list bill.

Mr. UNDERWOOD. Mr. Chairman, I was absent from the Chamber for a moment, and I understand the gentleman from Kansas [Mr. JACKSON] stated that I brought this bill into the House knowing that it would not become a law and could not pass. I am here now, and I would like the gentleman to repeat his statement, so that I may understand.

Mr. JACKSON. I think I made no stronger statement than when I opened my remarks, which was that I think the entire measure, including free sugar, is a piece of rank demagoguery.

Mr. UNDERWOOD. I would like to understand what the gentleman said.

Mr. JACKSON. I remember no such remark as he quotes, except that.

Mr. UNDERWOOD. Then I did not understand it correctly.

Mr. JACKSON. I think I did say this, Mr. Chairman, and I am willing to repeat it, that neither he nor any other Member on that side of the House expects this bill to become a law, and that I believe no man on that side would vote for it if he did expect it to become a law.

Mr. UNDERWOOD. I will say to the gentleman from Kansas, if he will allow me to interrupt him——

Mr. JACKSON. Certainly.

Mr. UNDERWOOD (continuing). That he has no warrant whatever for making any statement of that kind. This side of

the House passed a wool bill that your side said could not pass, and we sent it to the President of the United States. It would be a law to-day if he had put his signature to it. We can not control the President of the United States. I believe that this bill will pass the Senate as well as the House, and that the President of the United States will not dare to veto it. [Applause on the Democratic side.] I want it to become a law.

Mr. JACKSON. Mr. Chairman, mere assertion and statement is very cheap, although it is hard sometimes, under the rule on the other side of the House, to get opportunity to make them from the minority side. But, Mr. Chairman, I voted for the gentleman's wool bill——

The CHAIRMAN. The time of the gentleman from Kansas [Mr. JACKSON] has again expired.

Mr. PAYNE. Mr. Chairman, I will yield to the gentleman from Kansas five minutes more.

Mr. JACKSON. I voted for the gentleman's wool bill, because, as I stated a moment ago, he told the House in the joy of his new-found definition of a tariff for revenue that the Government was in dire need of revenue, and that it was necessary to keep the tariff on raw wool, notwithstanding that his party had promised the people of the country that they would take the duty off of raw material. [Applause on the Republican side.]

Now then, Mr. Chairman, the revenues have so increased within the year that that party can disregard the fact that they were willing to put a duty of 20 per cent on raw wool.

Mr. UNDERWOOD. Will the gentleman allow me to ask him a question?

Mr. JACKSON. Just wait a moment, please. The revenues of the Government have become so opulent since that time, less than a year ago, that they can now disregard $53,000,000 of revenue and trade it off for a lawsuit.

This is the first time in the history of the country that any party has attempted to make a lawsuit legal tender or has attempted to coin a lawsuit into gold with which to pay the public expenditures; and so, notwithstanding the gentleman's statement that I was not authorized to state what I did a moment ago, I think I am fully warranted when I say that such legislation as that is an imposition and a deception upon the American Republic. [Applause on the Republican side.]

Mr. UNDERWOOD. Mr. Chairman, I want to ask the gentleman on what authority he states that the Democratic Party had pledged itself to free wool?

Mr. JACKSON. Well, Mr. Chairman, I did not state that, in the first place, and——

Mr. UNDERWOOD. I understood the gentleman to state it.

Mr. JACKSON. Well, the gentleman's understanding is at fault. I did state that your party had long pledged itself to free raw materials, and that, not many years ago, it had declared for free wool.

Mr. SHACKLEFORD. Mr. Chairman, may I ask the gentleman a question?

Mr. CULLOP. Will the gentleman permit a question right there?

The CHAIRMAN. Does the gentleman yield?

Mr. JACKSON. It depends on whether I shall get more time or not.

Mr. CULLOP. Can the gentleman point to a single Democratic national platform that ever promised free raw materials? If so, will the gentleman name it? There never has been one.

Mr. MANN. Ask him if they are in favor of free raw materials.

Mr. JACKSON. Are you in favor of them now?

Mr. CULLOP. No. My party stands for a revenue tariff. I am in favor of a tariff for revenue, and you can not point to a single Democratic national platform that ever pledged the party to the doctrine of free raw materials.

Mr. PAYNE. I would like to know if the gentleman from Indiana over there knows everything——

Mr. CULLOP. No. I do not claim any such distinction.

Mr. PAYNE. I mean about the Democratic Party. I did not mean any offense to the gentleman. I would like to know if the Democratic Party did not vote for free wool and stand for it? Will some one of you over there answer that, if you can? [Applause on the Republican side.]

Mr. CULLOP. I do know that no Democratic national platform ever declared for free raw materials, and you can not find it in any of them.

Mr. JACKSON. Now, Mr. Chairman, on the subject of the constitutionality of this law——

Mr. SHACKLEFORD. Mr. Chairman, I would like to ask the gentleman just one question.

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Missouri?

Mr. JACKSON. Just wait until I find out whether I can get more time. I have not discussed all I want to say about this proposed law. I decline to yield.

Mr. PAYNE. Mr. Chairman, I yield five minutes more to the gentleman.

The CHAIRMAN. The gentleman from Kansas is recognized for five minutes more.

Mr. SHACKLEFORD. What I want to know of the gentleman is whether, when he voted for the wool bill, he expected it to become a law? [Laughter on the Democratic side.]

Mr. JACKSON. No; I did not.

Mr. SHACKLEFORD. That is frank.

Mr. JACKSON. Now, Mr. Chairman, I was about to say something as to whom this law would affect. In my judgment, if it is ever held to be constitutional, being levied upon the capital and industry employed in any business in this country, it will apply to every merchant, every business man in this country who has a capital equal to $25,000, and I would like to know why you propose to take off this tax on sugar and place it upon the man who hands out the sugar to the consumers and still think that he will not put it back upon that sugar?

Why, gentlemen, the very last clause of this bill adopts the internal-revenue laws of the present time. I congratulate the Democratic Party upon extending the machinery, which was made for the purpose of collecting the tax on the illicit distilleries of the South, over the legitimate business interests of the country all over the United States; and I have no doubt that certain parts of Virginia that are at present under arms will welcome such extension of the Federal power on the part of the Democratic Party.

Mr. SHACKLEFORD. That is a Republican county to which the gentleman refers. [Laughter.]

Mr. JACKSON. Well, it is said that there is an illicit distillery behind each pine tree in it.

Under the present corporation-tax law there was collected as penalties from the small corporations not subject to the tax at all $25 or $15 from each corporation. Does the gentleman expect the army of Federal inspectors, described here in Mr. Cabell's letter, which is included in the minority report, to go riding over the country and levy taxes of from $15 to $25 upon each firm and each individual engaged in business, under the authority of the Federal Government, and at the same time meet the approval of your southern brethren who are so jealous of the Federal Government's powers of taxation?

This law will never be held to be constitutional. It is worded almost in the identical language that was used in the act of 1894; and will the gentleman expect that the words which levied a tax upon the "income from property and rents and profits" will mean substantially anything different from the words that seek to levy a tax upon the "income of property used in business"? The courts will never say that there is any substantial difference between the two propositions. And so I say you propose to trade off $53,000,000 of Government revenue for a mere lawsuit. That is what your bill means.

Now, something was said on that side about the Republicans on this side refusing to tax the wealth of the country. But here you are face to face with the proposition that the last Congress placed a similar tax of 1 per cent upon the corporate wealth of the country, and that instead of attempting to increase that tax or to pass an inheritance tax, which would reach some of the idle wealth of the country, you have undertaken to spread this tax upon the active middle-class business men of the country. You have left all of that wealth, you have exempted under the terms of this law all of that kind of wealth which should be taxed, including the bonds and the notes that are issued by these great corporations.

The gentleman from Ohio [Mr. LONGWORTH] stated here that the entire wealth of the country amounted to $107,000,000,000.

I will read here from John Moody, "The Truth about the Trusts":

Thus it will be seen that including industrial, franchise, transportation, and miscellaneous about 445 active trusts are represented in the book, with a total capitalization of $20,379,162,551. They embrace in all about 8,664 original companies.

In fact, the only gigantic interests or groups which can in any sense be considered as on the same plane are the Rockefeller and Morgan groups.

The Morgan domination, like the Standard Oil, makes itself felt through the means and influence of large metropolitan financial institutions and great banks, such as the National Bank of Commerce, First National Bank, Chase National Bank, and Liberty National Bank. The great life insurance companies, such as the New York Life, and trust companies, such as the Mercantile, Guaranty, and Central Trust, are generally rated as being at least partially under the Morgan control.

It should not be supposed, however, that these two great groups of capitalists and financiers are in any real sense rivals or competitors for power, or that such a thing as "war" exists between them. For, as a matter of fact, they are not only friendly, but they are allied to each other by many close ties, and it would probably only require a little stretch of the imagination to describe them as a single great Rockefeller-

Morgan group. It is felt and recognized on every hand in Wall Street to-day that they are harmonious in nearly all particulars, and that instead of there being danger of their relations ever becoming strained it will be only a matter of a brief period when one will be more or less completely absorbed by the other, and a grand close alliance will be the natural outcome of conditions which, so far as human foresight can see, can logically have no other result.

Therefore, viewed as a whole, we find the dominating influences in the trusts to be made up of an intricate network of large and small groups of capitalists, many allied to one another by ties of more or less importance, but all being appendages to or parts of the greater groups, which are themselves dependent on and allied with the two mammoth, or Rockefeller and Morgan, groups. These two mammoth groups *jointly—for as pointed out they really may be regarded as one*—constitute the heart of the business and commercial life of the Nation, the others all being the arteries which permeate in a thousand ways our whole national life, making their influence felt in every home and hamlet, yet all connected with and dependent on this great central source, the influence and policy of which dominates them all.

The following statement appears in the Government's brief in the Corporation Tax case:

Two hundred and sixty-two thousand four hundred and ninety corporations made returns under the corporation-tax law. They had a capital stock of $52,371,626,752, bonded and other debt of $31,333,952,696, and a net income upon stock of $3,125,481,101. If this capitalization is substantial, they have absorbed the major part of the taxable wealth of the country.

Indeed, a writer in one of the newspapers published in this city, with more frankness than is shown by some of his fellow advocates of this bill, in predicting that it will eventually pass the Senate, says:

Advocates of the measure declare that the so-called special interests are not opposing the bill, but are perfectly willing that it should become law. They are already covered by the corporation tax, and its extension to persons may be to their advantage, if it ever becomes necessary to greatly increase taxation, as in the event of war.

It is thus seen that this law exempts by its terms the corporate wealth of the country, as well as the idle and fixed income property of the country. The vast amount of wealth amounting to more than one-third of the entire wealth of the country it is proposed to leave free of taxation, except as to taxes imposed by the last Republican Congress.

If it is a measure intended to benefit all the people, why did you not increase this corporation tax and levy a graduated inheritance tax? This would have taxed wealth and idleness and not industry alone. You could have increased the internal-revenue tax on beer and tobacco to have raised the sum needed and still the taxes on tobacco would be less than it is in England and the beer tax less than it was during the Spanish War. These taxes would have been legal, and therefore sure to be collected. But as it is you are sure of nothing.

In my humble judgment the whole law must go down as unconstitutional when it comes before the courts for trial. Of course I understand that the reputed author of this bill [Mr. HULL] argues that once a man engages in business his entire income from every source, whether from the business or from some such source as interest on United States bonds or income from real estate, will become taxable. And this is the very rock upon which the whole structure will go to pieces.

In order to arrive at once at what I wish to say, allow me to read from the Corporation Tax case what the court in its opinion said upon these words. The court said:

It is true that in the Spreckels case (192 U. S., supra) the excise tax, for the privilege of doing business, was based upon the business assets in use by the company, but this was because of the express terms of the statute which thus limited the measure of the excise. The statute now under consideration bears internal evidence that its draftsman had in mind language used in the opinion in the Spreckels case, and the measure of taxation, the income from all sources, was doubtless inserted to prevent the limitation of the measurement of the tax to the income from business assets alone.

It is evident from the speech of the gentleman from Alabama [Mr. UNDERWOOD] and the others who have talked upon that side of this proposition that they expect that the same measurement of this tax which was applied by the Supreme Court to the measurement of a corporation income can be applied to the measurement of an individual's income; and I assert that position overlooks the fundamental proposition in the corporation-tax case, namely, that the decision rests on the right to tax the use of a corporate franchise in business. I know gentlemen quote it here as though it had rested on the proposition of taxing business alone, but they do not notice that in every instance where the court used this language it emphasizes the fact that the thing taxed is the privilege of the corporation to do business as a corporation. This is important upon the question of the measure of the tax.

It was held that the tax on a corporation might include all its income from every source, including income from property which, considered alone and unconnected with the business, would not be taxable, but the court did not hold, and never will hold, that such a rule could be applied to individuals. The court rested this ruling squarely on the very fact that all the property of a corporation must be necessarily related to and connected with its business. The Government in the brief on this case said:

Besides, the property held by a corporation, whether actively employed in its principal business or not, does serve as an aid to that business, adding to its financial strength and credit.

When the court came to pass on that question, in the opinion it used this language:

In the case at bar we have already discussed the limitations which the Constitution imposed upon the right to levy excise taxes, and it could not be said, even if the principles of the fourteenth amendment were applicable to the present case, that there is no substantial difference between the carrying on of business by the corporation taxed and the same business when conducted by a private firm or individual. The thing taxed is not the mere dealing in merchandise, in which the actual transactions may be the same, whether conducted by individuals or corporations, but the tax is laid upon the privileges which exist in conducting business with the advantages which inhere in the corporate capacity of those taxed, and which are not enjoyed by private firms or individuals. These advantages are obvious and have led to the formation of such companies in nearly all branches of trade. * * *

It is this distinctive privilege which is the subject of taxation, not the mere buying or selling or handling of goods, which may be the same, whether done by corporations or individuals.

Then on this very question the court further said:

It is contended that the measurement of the tax by the net income of the corporation or the company received by it from all sources was not only unequal, but so arbitrary and baseless as to fall outside the authority of the taxing power. But is this so? Conceding the power of Congress to tax the business activities of private corporations, including, as in this case, the privilege of carrying on business in a corporate capacity, the tax must be measured by some standard, and none can be chosen which will operate with absolute justice and equality on all corporations.

Some corporations do a large business upon a small amount of capital; others with a small business may have a large capital.

The tax upon the amount of business done might operate as unequally as a measure of excise as it is alleged the measure of income from all sources does.

Now, again:

Nor can it be justly said that investments have no real relation to the business transaction by a corporation. The possession of large assets is a business advantage of great value; it may give credit which will result in more economical business methods; it may give a standing which shall facilitate purchases; it may enable the corporation to enlarge the field of its activities and in many ways give it business standing and prestige.

So this bill incorporates in its provision a measure of taxation which, under the corporation-tax cases, is clearly unconstitutional and can not be upheld. Broadening the provisions of the corporation-tax law to include all individual incomes brings the law within the rule declared in the Pollock case and annuls it in its entirety.

In the first Employers' Liability case (207 U. S., 463) Congress used language which could be construed to include intrastate as well as interstate commerce, and intrastate commerce not being with the regulative power of Congress the entire law was declared unconstitutional. Again, in Western Union against Kansas (216 U. S., 1)—a case in which I was unfortunate enough to be on the wrong side as counsel—the court held that a State law attempting to tax all the capital stock of a foreign corporation was unconstitutional as an unlawful restriction on interstate commerce.

As this bill boldly and unequivocally attempts to measure a tax by including in its provisions sources of incomes not within the power of Congress to tax constitutionally I believe it will be stricken down by the courts as a whole.

It is also clear that when you extend the measure of tax to include all the income from every source of a man who engages in business, regardless of whether the income is received from the business, you thereby include within the letter of the law incomes from real property and invested personal property wholly unconnected with the business sought to be taxed. This penalizes or taxes the mere ownership of property and is squarely within the prohibitions declared in the income-tax cases and therefore void.

Mr. UNDERWOOD. Mr. Chairman, I intended to move that the committee rise at this time, but I wish to detain the committee for a moment, in order to congratulate the country on the fact that we know where the distinguished gentleman representing the Progressive Republican Party of Kansas stands on the great political issues of the day. From my association in past Congresses and in this Congress I had reason to believe that even if our progressive brethren belonging to the Republican Party had not as yet entirely approached the position taken by the Democratic Party in times past in favor of honest legislation for the American people, yet that on many questions those gentlemen who style themselves Progressive Republicans were working away from the domination of the wealth of the country and seeking legislation that would relieve the American people of many of their burdens. But the gentleman from Kansas [Mr. JACKSON], in addressing himself to this House on a bill which of all bills is intended to place on the wealth of this country a portion of the taxes wrung from the American

people, opens his address by declaring to this House that such a bill is buncombe.

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

Mr. UNDERWOOD. I yield.

Mr. JACKSON. Does the gentleman mean to say that this tax will reach, in any degree at all, the idle wealth, or the corporate interests of the country?

Mr. UNDERWOOD. I will tell the gentleman what it means.

Mr. JACKSON. Will the gentleman answer my question?

Mr. UNDERWOOD. I am going to. The gentleman's colleagues have already told him what it means. The distinguished gentleman from Iowa [Mr. PROUTY] who preceded him in a very able speech, declared this evening that the purpose of this bill to tax the great wealth of this country was along lines that he could approve of.

Mr. JACKSON. Mr. Chairman, if the gentleman will yield——

Mr. UNDERWOOD. Oh, yes.

Mr. JACKSON. I did not understand the gentleman from Iowa to make such a statement. I understood him to say that this law was unconstitutional, in his calm judgment, and that the present Federal laws, including this one, would not compel Rockefeller to pay as much tax as a section hand. [Applause on the Republican side.]

Mr. UNDERWOOD. The gentleman clearly stated that he believed that the Supreme Court of the United States would reverse the Pollock case. The gentleman from Iowa proposes to vote for this bill. He would not vote for a bill that he believed to be in violation of the Constitution of the United States. But the gentleman from Kansas [Mr. JACKSON] proposes to cast his vote against an attempt to send a bill back to the Supreme Court, and let the highest tribunal of this land determine whether the great wealth of this country shall pay a portion of the taxes that the American people have to bear.

Mr. JACKSON. Will the gentleman yield for a correction?

Mr. UNDERWOOD. Certainly.

Mr. JACKSON. I have not said I intended to vote against this bill. [Laughter on the Democratic side.]

Mr. UNDERWOOD. The gentleman has made a speech against it. The gentleman has declared that the bill is buncombe. The gentleman has declared that it is a fraud.

Mr. JACKSON. I think it is.

Mr. UNDERWOOD. The gentleman has declared that it is unconstitutional.

Mr. JACKSON. Yes.

Mr. UNDERWOOD. But I shall certainly welcome the gentleman's vote for the bill, notwithstanding that statement. [Applause on the Democratic side.]

Mr. JACKSON. The gentleman need not be too foxy about that proposition, if he will pardon the language. I shall not vote for the bill. The responsibility is yours. I shall vote "present" upon the bill, because I believe it is unconstitutional.

Mr. FOSTER of Illinois. That is dodging.

Mr. JACKSON. If gentlemen will restrain their mirth——

Mr. UNDERWOOD. I did not yield for a speech. I yielded for a question.

Mr. JACKSON. If the gentleman criticizes my position, I take it he will allow me to explain it.

Mr. UNDERWOOD. Certainly.

Mr. JACKSON. I shall not vote against it, because if any part of it should ever be held constitutional I might be compelled to pay a slight tax, and I shall not cast my vote against it. I realize, as the gentleman does, that I can not prevent the passage of the bill.

And if the gentleman will say to me that the passage of this bill could in any wise procure a reversal of the Pollock case, if the gentleman will say that the bill is presented under the pretext that it is in opposition to the Pollock case and not in conformity to it, I will vote for it, because I favor an income tax, and my opposition to this bill is that it is not an income tax.

Mr. UNDERWOOD. Then the gentleman can vote for the bill for this reason: The bill is not presented for the purpose of a reversal of the Pollock case. The bill is presented in conformity to the present decisions of the Supreme Court.

Mr. JACKSON. That is the way I understood it.

Mr. UNDERWOOD. But the gentleman's colleagues on that side of the House have already said, and gentlemen on this side of the House have said, that the probability is that the present Supreme Court, presided over by a man who dissented from the Pollock case, even if it had to go so far as to reverse the Pollock case to declare this bill constitutional, the probabilities are that it would. Even the distinguished gentleman from Ohio [Mr. LONGWORTH] did not go so far as to declare this bill unconstitutional in its terms. The distinguished gentleman from Ohio limited his criticism of this bill, presenting the case of his Republican colleagues on the Ways and Means Committee, to the criticism that the court, after holding it constitutional, would differentiate as to how far the bill would reach the wealth of this country.

Mr. LONGWORTH. Will the gentleman permit me?

Mr. UNDERWOOD. Certainly.

Mr. LONGWORTH. I understood the gentleman who led off so ably in debate, the gentleman from Tennessee [Mr. HULL], to admit that the majority of the Ways and Means Committee have no idea that the Supreme Court would reverse the decision in the Pollock case, but rested their contention on the question as to their understanding of the corporation-tax decision to cover this tax.

Mr. UNDERWOOD. The gentleman from Ohio knows as well as I do that there is a conflict between the Pollock case and the corporation-tax case, and the Supreme Court, instead of directly reversing the Pollock case, differentiated as between the two cases, and it may do so in this case.

Mr. JACKSON. Do I understand the gentleman from Alabama to be arguing that if the Pollock case is upheld this law must fail?

Mr. UNDERWOOD. No; I do not argue that at all. I am not entering into an argument in this case now, but I simply want to congratulate the country on the fact that we have found out where the Representative of the progressive Republicans from Kansas stands. We have found, Mr. Chairman, that he does not stand anywhere. [Laughter.] The gentleman from Kansas is willing to vote for the reduction on wool; he is willing to vote for a bill reducing the duty on iron and steel, because it does not affect his constituency. But he says himself that he may be taxed under this bill, and he says himself that there are industries in his State that this bill may affect. He says himself that this may affect the enactment of a bill putting sugar on the free list, in which his State is interested, and therefore, instead of taking a stand on this bill that it is constitutional and therefore he will vote for it, or that it is unconstitutional and under his oath he will vote against it, he prefers to announce to the country that as the representative of the progressive sentiment of the Republican Party in the State of Kansas he will stand on the fence and let the procession go by on the other side without taking any part in it. [Laughter.] [Applause on the Democratic side.]

Mr. JACKSON. Mr. Chairman, I ask unanimous consent to address the House for three minutes, if the gentleman from Alabama has finished.

Mr. UNDERWOOD. The gentleman from New York has control of the time, and I am willing for him to yield to the gentleman.

Mr. PAYNE. I will yield to the gentleman from Kansas three minutes, and that is the last three minutes I will yield to-night. [Laughter.] We are wasting time here.

Mr. JACKSON. Mr. Chairman, the distinguished gentleman from Alabama does me entirely too much honor in crediting me with being the leader of the progressives of our State. I have never assumed to be the leader of any faction or any party. But, Mr. Chairman, so far as he attributes to me an uncertainty as to where I stand, let me say to the distinguished gentleman that my tariff position is fully as well understood in the country as is that of the gentleman from Alabama. If the gentleman from Alabama would do the country the same service that he has accredited me with doing, and tell them whether he is a protectionist or free trader, he would, indeed, do the country a great service. If he would tell the country when he declared in a magazine article, which he circulated all over the country, that he was in favor of a tariff which equaled the difference in the cost of production at home and abroad, whether he made that statement as a Republican or as a Democrat, he would do the country a very valuable service. [Laughter and applause on the Republican side.]

Mr. UNDERWOOD. Mr. Chairman, the gentleman from Kansas has made so many misquotations that I am not surprised at the last one. He can not find in any article that I have ever given authority for, that ever went out under my name, where I said that I believed in a tariff that equaled the difference in the cost of the production at home and abroad. I have repeatedly said that the high-water mark of revenue tariff was the difference in cost at home and abroad, and that from that high-water mark it went downward according to the necessities of the Government. I have said that the low-water mark of the Republican tariff was above the difference between the cost at home and abroad, because they declare in favor of a reasonable profit after having fixed the difference in cost at home and abroad. That is all I have ever said, and any quotation to the contrary does not represent my views.

Mr. JACKSON. That is entirely satisfactory as far as I am concerned, and I welcome the gentleman into the Republican Party. [Laughter and applause on the Republican side.]

Mr. UNDERWOOD. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 21214 and had come to no resolution thereon.

LEAVE OF ABSENCE.

Mr. SHEPPARD, by unanimous consent, was given leave of absence indefinitely, on account of illness.

EXTENSION OF REMARKS AND LEAVE TO PRINT.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent that all gentlemen who speak on the bill may revise and extend their remarks in the RECORD, and that all gentlemen who may desire to do so may have five legislative days after the passage of the bill to print remarks on the bill in the RECORD whether they speak or not.

The SPEAKER. The gentleman from Alabama asks unanimous consent that all gentlemen who have spoken on the bill may have leave to extend their remarks in the RECORD, and that all other gentlemen shall have five legislative days after the bill is passed to print remarks on the bill. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 54 minutes p. m.) the House adjourned until Monday, March 18, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Little River, Del. (H. Doc. No. 626); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting deficiency estimate of appropriations required by the Interior Department (H. Doc. No. 627); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone, reported the same without amendment, accompanied by a report (No. 423), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WILSON of Pennsylvania, from the Committee on Labor, to which was referred the bill (S. 252) to establish in the Department of Commerce and Labor a bureau to be known as the children's bureau, reported the same with amendment, accompanied by a report (No. 424), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CLAYTON, from the Committee on the Judiciary, to which was referred the bill (H. R. 21226) providing for compensation of clerks of United States district courts, and for other purposes, reported the same with amendment, accompanied by a report (No. 425), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BURNETT, from the Committee on Immigration and Naturalization, to which was referred the bill (H. R. 21489) to amend the immigration law relative to alien seamen and stowaways, reported the same without amendment, accompanied by a report (No. 426), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HUMPHREYS of Mississippi, from the Committee on Rivers and Harbors, to which was referred the concurrent resolution (S. Con. Res. 18) requesting a supplemental report from the War Department, reported the same without amendment, accompanied by a report (No. 427), which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 19820) granting an increase of pension to Sue B. Merrill, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CLAYTON: A bill (H. R. 22006) authorizing the Choctawhatchee River Light & Power Co. to erect a dam across the Choctawhatchee River, in Dale County, Ala.; to the Committee on Interstate and Foreign Commerce.

By Mr. LINDBERGH: A bill (H. R. 22007) requiring the Government to furnish post-office boxes free to regular patrons of post offices in towns, villages, and cities in which there is no free delivery; to the Committee on the Post Office and Post Roads.

By Mr. COX of Ohio: A bill (H. R. 22008) to provide for the erection of a public building at Middletown, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. CARLIN: A bill (H. R. 22009) for the construction of a public building at Warrenton, Va.; to the Committee on Public Buildings and Grounds.

By Mr. JOHNSON of Kentucky (by request): A bill (H. R. 22010) to amend the license law approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire; to the Committee on the District of Columbia.

By Mr. PRAY: A bill (H. R. 22011) providing for second homestead entries; to the Committee on the Public Lands.

By Mr. LEE of Pennsylvania: A bill (H. R. 22012) concerning carriers engaged in interstate commerce and owners of coal mines the products of which enter into interstate commerce and their employees; to the Committee on Interstate and Foreign Commerce.

By Mr. HAY: Joint resolution (H. J. Res. 273) authorizing the Secretary of War to receive for instruction at the United States Military Academy Manuel Agüero y Junqué, of Cuba; to the Committee on Military Affairs.

By Mr. GARDNER of Massachusetts: Joint resolution (H. J. Res. 274) providing for the establishment of a hospital ship in connection with the American fisheries; to the Committee on the Merchant Marine and Fisheries.

By Mr. DANIEL A. DRISCOLL: Memorial from the Assembly of the State of New York, dated March 11, 1912, asking that the United States improve and enlarge to barge-canal dimensions that portion of Lake Champlain known as the inlet of said lake which is under Federal jurisdiction and control, in order that the improvement and development of the Champlain Canal being done by the State may be supplemented and made effective by the improvement of this section under national control and jurisdiction; to the Committee on Rivers and Harbors.

By Mr. LINDSAY: Memorial from the Assembly of the State of New York, dated March 11, 1912, asking that the United States improve and enlarge to barge-canal dimensions that portion of Lake Champlain known as the inlet of said lake which is under Federal jurisdiction and control, in order that the improvement and development of the Champlain Canal being done by the State may be supplemented and made effective by the improvement of this section under national control and jurisdiction; to the Committee on Rivers and Harbors.

By Mr. MOTT: Memorial of the Legislature of the State of New York, favoring the improvement of the inlet of Lake Champlain; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. ANSBERRY: A bill (H. R. 22013) granting an increase of pension to Augustus Fortney; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 22014) for the relief of Salada Moses; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22015) granting an increase of pension to Frazier McDonald; to the Committee on Pensions.

By Mr. CAMPBELL: A bill (H. R. 22016) granting an increase of pension to John D. Mohler; to the Committee on Pensions.