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BOOK 27

JUNE 16-30, 1936

Tuesday
June 16, 1936
9:30 a. m.

HMjr: Hello

Operator: Congressman Doughton is out in the building somewhere and they are going to send for him.

HMjr: O. K.

Operator: I'll call you right back.

HMjr: See if Senator Barkley is available.

Operator: Senator Barkely hasn't reached his office yet.

HMjr: All right.

Operator: I'll have him call you when he comes in.

HMjr: Well, I'm going to talk to the President now, so don't -

Operator: Senator Barkley - go ahead.

HMjr: Hello

Alben
Barkley: Hello

HMjr: Henry talking -

B: Yes

HMjr: How are you?

B: All right, how are you?

HMjr: Where those figures of any use that we sent up to you?

B: Well, I haven't seen them.

HMjr: Well, they went up anyway.

B: Well, I'm glad to know it. Who did you send them to?

HMjr: Well, I don't know. Gaston sent them up to your office.

B: They - well, I haven't seen them. I just got in the office.

HMjr: Oh, well I guess they are there. Tell me, what's new on the Tax Bill?

B: Oh, you mean - oh, I thought you were talking about the Tax Bill. I - oh, you mean - ?

HMjr: I was talking on your --

B: Oh, yes, yes - they were very helpful.

HMjr: No, I was talking --

B: Pardon me, I thought you were talking about an estimate we asked for yesterday.

HMjr: No, no -

B: Oh, well here's the situation. -

HMjr: God, don't get the Philadelphia Convention and the Tax Bill mixed up.

B: No, I - well I've been trying to separate them but it's been hard to do.

HMjr: (Laughs)

B: I'll say I've been in this situation every time I'd get a new idea going along the street or in Congress, anywhere, I'd just squat right down and write it down on - with a piece of paper and a pencil -

HMjr: Yes

B: - for fear I'd forget it before I got home.

HMjr: I see.

B: So that's the way I've written my key notes - if it's no good why you'll understand that you're responsible for it.

HMjr: All right.

B: Your damned old Tax Bill.

HMjr: O. K.

B: Well, now here's the situation. Of course they've just been sitting over there arguing now for a week -

HMjr: Yes

B: The House claiming that they wrote their bill according to the President's message and they won't budge from it; and the Senate fellows claiming that under the circumstances the best thing to do is to keep the revenue we've got and then put these super-taxes on undistributed profits for the rest of it.

HMjr: Yes

B: So yesterday we - the Democratic Senate Conferees submitted - or are going to submit this morning a proposition which preserves the present revenues and then puts a graduated tax on undistributed profits -

HMjr: Yes

B: - up to twenty-five per cent.

HMjr: I see.

B: Which would make a total of forty per cent.

HMjr: Yes

B: Plus the present tax, which I think will need a good deal of pressure to distribute.

HMjr: Yes

B: And we asked for an estimate last night to see whether that would raise the money.

HMjr: I see.

B: The proposal we made was to exempt two thousand dollars -

HMjr: Yes

B: -and the first twenty per cent -

HMjr: Yes

B: - which would be in the nature of a cushion for the little fellow.

HMjr: Yes

B: And then to put a graduated tax on each merchant of twenty per cent from ten per cent on up to twenty-five.

HMjr: Yes

B: Ten per cent on the second twenty, fifteen on the third and twenty on the fourth and twenty-five on the last.

HMjr: Yes

B: I don't know whether they will ^{of course} consider it or not, but that's what we're going to put up to them this morning.

HMjr: This morning?

B: Yes - So if the estimates show that that'll get the money -

HMjr: Yes

B: Why it looks to me like that might be the basis of a compromise.

HMjr: Yes - Well, what's the strategy, to keep the President out until the last minute?

B: Well, he - he talked to me yesterday, I guess you knew about it?

HMjr: Yes, I knew about it.

B: And - I think it's best to do it until it's absolutely necessary.

HMjr: Yes

B: Although, if we don't get anywhere today I think the thing for him to do is to contact these House Conferees and see what he can persuade them to work out.

HMjr: Yes - when would he do that, tonight?

B: Well, any time - or this afternoon. We'll know this morning whether they're in a frame of mind to consider this.

HMjr: I see.

B: Of course a good deal depends on the estimate we get from the Treasury. We're supposed to have that by ten o'clock.

HMjr: Well, I'll call up and find out about it.

B: And if that does the work why - of course you see that twenty-five per cent is going a good piece for fellows like George -

HMjr: Yes

B: - and King -

HMjr: Yes

B: - and Walsh, who didn't want to go above seven.

HMjr: I see.

B: And if it will get the revenue why I think something of that kind has got to be worked out and then when we have more time, in the next session or some other, we can take up more deliberately the question of subsidies and grants altogether for the corporation taxes.

HMjr: Yes

B: Don't you think that's best?

HMjr: Yes, it sounds- I want to see what the boys did on the estimate and I'll call them -

B: All right. - Of course that's --

HMjr: Because I felt that -

B: - a vital proposition, isn't it?

HMjr: Yes - I felt for some time we ought to keep what we've got.

B: Well, I do too. I'm absolutely convinced of that now.

HMjr: And --

B: Especially under these circumstances. Here we are at the end of a session -

HMjr: Yes

B: - and everybody wants to adjourn. As the President said the other night, you know, when we were up there - ?

HMjr: Yes

B: It's better to guess only at one third than to guess at a hundred per cent of the revenue.

HMjr: That's right.

B: Yes

HMjr: That's right, - well, thank you very much.

B: All right - thank you for that material you sent me.

HMjr: That's all right. Call on us again.

B: All right, thank you.

HMjr: Thank you.

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Tuesday
June 16, 1936 (9:45 a. m.)

HMjr: Hello -
R. L.
Doughton: Hello

HMjr: Hello, Mr. Doughton -

D: Oh yes, Mr. Secretary -

HMjr: How are you?

D: All right, thank you, how are you?

HMjr: Oh, fine - do you think you're going to get anywhere this morning?

D: How is that?

HMjr: How is the Tax Bill coming?

D: Well, I don't know - we adjourned this morning at ten o'clock - I don't know what is going to be the frame of mind of the Senate this morning. Our folks are pretty obstinate.

HMjr: Are they?

D: I hope we can get a great deal from them today, though. I'm anxious to get rid of it.

HMjr: Yes

D: Do you know anything new on it?

HMjr: No, no, I just know you're meeting and I just wondered which team was going to win.

D: Well - I'll have a better idea after we hold our morning session. I'll call you back some time along around twelve o'clock.

HMjr: Swell, will you do that?

D: I certainly will.

HMjr: Thank you.

D: All right.

HMjr: Goodbye.

D: Thank you.

June 16, 1936

Congressman Doughton called at 12 o'clock today and the following conversation between him and the Secretary took place:

HM, Jr: Hello.

Doughton: Mr. Secretary?

HM, Jr: How are you?

D: All right. I told you I'd call you back.

HM, Jr: I know, you always keep your word.

D: Well, thank you, if I can't do that I don't do any more. Why, we had another conference this morning and the Senate submitted a kind of proposition. They said they would not accept the House bill, they wouldn't accept a bill that didn't carry some corporation tax.

HM, Jr: Yes.

D.: So they submitted just a proposition to retain the present corporation and capital stock and excess profits tax like they are -

HM, Jr: Yes.

D: - then gradually on up to the possession of two thousand and starting with five per cent on the first, twenty per cent and so on and so on.

HM, Jr: Yes.

D: And we've taken that -- we are going to meet with them again at four o'clock.

HM, Jr: You're going to meet with them again at four?

D: Yes, we're going in there and talk a little with our experts about it and we're going to meet with them again at four o'clock and we're going to have a night session to-night if necessary.

HM, Jr: A night session?

D: And try to agree on 748 before we sleep tonight.

HM,Jr: Yes.

D: Have you - are you of the opinion that we certainly ought to retain some corporation tax?

HM,Jr: You mean like the twelve and a half to fifteen?

D: Something like that, just to get some tax on a corporation to that effect - before

HM,Jr: Well, I can tell you how I feel about it.

D: Yes.

HM,Jr: I feel we should.

D: You - that's what I wanted to find out.

HM,Jr: I feel that at this stage that we can't just throw that all over board.

D: Well, I never did believe in that, but then Oliphant in the Treasury Department, who is your representative -

HM,Jr: Yes.

D: - and Helvering, you know, insisted so strong on it that we went along on that premise.

HM,Jr: Well, of course a couple of months have passed and you're asking me a point blank question and I feel I ought to answer it.

D: Yes, that's what I wanted to get over to you fellows on that particular point.

HM,Jr: And I feel at this stage, in the last day, that we oughtn't to give up what we're sure of.

D: And then graduate the other?

HM,Jr: And graduate the other.

D: Yes - in fact they know that you enforce distribution and put them on a level with the Board of Tax Appeals.

HM,Jr: Yes, sir.

D: Well, that's been my conviction all the time.

HM,Jr: Well, that's the way I feel.

D: Yes, well I thank you and I'll call you again as soon as we do anything.

HM,Jr: All right.

D: Thank you very much.

HM,Jr: Thank you.

After the conversation was concluded, HM, Jr. remarked "I have just settled the tax bill." Then he called the President.

The President said, "The leaders have just come down and made me a proposition. I am just keeping myself open and free." He also said he thought that HM, Jr. had better not fly to New York tonight; that the Committee was going to meet again at four o'clock and they might come to a decision.

HM, Jr. told the President, "Doughton just talked to me and said, 'Now, listen, Morgenthau. I want to ask you something. How do you personally feel about keeping the 12½ - 15 percent corporation tax?' So I said, 'Well, after these couple of months I feel we ought to keep it.' I could just hear him sigh and he said, 'I have always felt that way,' and he said, 'Do you feel that way?' and I said, 'Yes, I do.' He asked the President, 'Was that O. K. for me to tell him that?' and the President answered, 'Yes; of course.'"

HM, Jr. told the President, "I will cancel my plans to go to New York."

Tuesday
June 16, 1936 (9:50 a. m.)

HMjr: Hello

Operator: Senator Robinson

HMjr: Hello

Operator: Go ahead.

Joe Robinson: Hello

HMjr: Henry Morgenthau, Junior - hello?

R: Hello

HMjr: Joe Robinson?

R: Yes

HMjr: Henry talking -

R: All right, Henry

HMjr: How are you?

R: Fine

HMjr: Joe, I'm calling up about this bill that Thomas of Oklahoma introduced yesterday extending the stabilization fund. - Hello?

R: Yes

HMjr: And then he had a lot of other things attached to it. Now he said that he'd do anything that we want. I mean if we want anything dropped off he's willing to do it. Now, if you remember, three or four weeks ago I spoke to you about having it introduced and you seemed a little bit doubtful so I just forgot about it. And the first thing that I knew was when I picked up the ticker yesterday and saw that Thomas had introduced this. I didn't know he was going to do it. Now, he's asked me what we'd like. - Hello?

R: Yes

HMjr: Now I want your advice. I'll do anything that you say.

R: I don't quite understand - my advice about what?

HMjr: Hello?

R: Hello

HMjr: I didn't get your question - I'm -
R: I say, you want my advice about what?
HMjr: Well, I mean the Treasury could take the position,
- well, we'd like to see this stabilization fund extended for two years at this session of Congress or sit back and do nothing.
R: Well, when does it expire?
HMjr: In February - January thirtieth
R: I see. January the thirtieth?
HMjr: Yes
R: Well -- that's all right to extend it now if you can get it done. I don't know whether it could be passed between now and adjournment or not.
HMjr: Well, of course it would be a tremendous body blow to the Administration if it came up and it was fumbled. I mean I don't want to take any chances.
R: Oh, I see what you mean.
HMjr: I can't - we can't afford to take any chances. I mean if we start it we just have to go through with it.
R: I see.
HMjr: And -
R: Well, my judgment is still -
HMjr: Yes
R: - that it's better to wait -
HMjr: Yes
R: - until next session.
HMjr: Yes - well, that suits me.
R: Suppose I talk with Thomas about it and get his idea.
HMjr: Would you mind?
R: Why did he butt into it I wonder?

HMjr: I don't know. After I talked to you - you were luke warm - and so I just forgot about it.

R: Yes

HMjr: And then yesterday afternoon Thomas introduced this thing and he tacked on a lot of silver stuff and all that. And then the thing that got me a little suspicious was, he told my man on the Hill, 'Now, don't say anything to House about this, I'll take care of the House after it passes the Senate'.

R: Don't say anything to the House?

HMjr: Yes

R: Yes - well, I'd better talk with him about it, Henry.

HMjr: Will you?

R: Yes, I will.

HMjr: And I'll sit tight until I'll hear from you?

R: Yes

HMjr: When do you think I'll hear?

R: Well, I'll - I'll see him today.

HMjr: Because he wants something this morning. He's pressing us very hard.

R: Well, I'll get in touch with him just as soon as I can.

HMjr: O. K.

R: All right.

HMjr: Thank you.

R: Goodbye.

Tuesday
June 16, 1936 (10:05 a. m.)

HMjr: Hello
George
May: Good morning, Mr. Secretary

HMjr: Hello, Mr. May, I got your message - I was up on the Farm.

M: Yes, I understood you were.

HMjr: I understood that you had something on your mind?

M: Well - I've done some study of these figures, quite a considerable study and I have some very definite things on my mind and they are things that I would rather say to you personally than just to send down a memorandum.

HMjr: I see. - I mean, have they to do with the present Tax Bill?

M: Well, I - they have to do with the whole method of providing for your statistics.

HMjr: I see.

M: I must say, the more I study them the more concern I feel about acting on them.

HMjr: Yes, well -

M: And I - I can't help feeling that the approach to the question is not quite what it should be and that it's the sort of thing that I don't want to just send you down a blunt letter. I'd rather talk to you and -

HMjr: Well, when would it be convenient for you?

M: Well, of course, if you happened to be in New York that would be more convenient.

HMjr: Yes, yes

M: If not - I could easily come to Washington.

HMjr: Yes

M: I feel it's sufficiently important to do that.

HMjr: Yes, well, let me just see how we get along for the next day or so on Congress and I'll call you up and find out how your engagements are.

M: All right then, I'll be glad to come down any time, if you want me to.

HMjr: Well, I certainly do. - I never go to New
York, I mean, I fly --

M: I'll come down whenever you - whenever you would
like to see me I'll come down.

HMjr: Well, thank you very much.

M: My engagements I can cancel if necessary.

HMjr: Well, I'll get in touch with you just as soon as I
know where I'm at.

M: All right, Mr. Secretary.

HMjr: Thank you.

Tuesday
June 16, 1936 (10:20 a. m.)

William
McReynolds: Leo -

Leo
Crowley: Yes

McR: McReynolds, Treasury, speaking -

C: Yes, Mac -

McR: How are you?

C: Fine, Mac

McR: Have you gotten up your answer yet on that report
that I gave you some time ago?

C: Just a minute, please.

(Pause)

C: Hello, Mac

McR: Yes, Leo

C: Mac, when I first got that thing I had to prepare -
I had to go out to St. Louis to prepare a talk for
Commencement there at St. Louis University.

McR: Yes

C: And then I thought I'd wait until after the Convention -

McR: Yes

C: Because, here, - I want to talk with you personally.
Here's the way I feel about that thing, Mac. He has
gone entirely into a thing that is none of his business
and something that is entirely irrelevant to my position
here in Washington. He's used that as a sort of a
blackmail proposition. Now, the people that I had --
did business with will want him to write a letter and
simply say that they were the ones that handled these
things, that this - the whole thing that dealt at arm's
length back in nineteen hundred and thirty-two, they
were perfectly satisfied with all the transactions and felt
that the Crowley family and the Crowley brothers were
all honorable people, running their business satis-
factorily and that the obligations were not due for
several years. Now, I didn't know whether I ought to
stir up any more mess than was stirred up by answering
that thing - I can't answer it in self respect, without
bringing up a motive behind this thing. And I didn't

-2-

know whether it was wise for me to bring it out with all the troubles we have right now or not, but I'll do whatever you say.

McR: Well, Leo, of course, so far as I am concerned, I was merely placing the thing in your hands to do as you thought you ought to do. - I didn't want to go ahead on this business without your having every opportunity -

C: Yes

McR: - to make such comment or response as you felt, in justice to yourself, you'd want to do.

C: Yes

McR: So I - I would want to leave that, I think -- a question for you to make up your own mind on, Leo.

C: Mac, please, let's you and I - I'd just like to have you give me a personal word of advice - the thing - I want to - I want to do the thing that's the big thing to do. I - I don't want to cause any trouble for anyone - for the President or anyone right, you know, with all the trouble he's got now.

McR: Yes

C: And I thought that by my kind of waiting a little bit and taking my time that maybe it would be better for everyone concerned. Now, what do you think?

McR: Well, I don't know how long the thing will hold, Leo. As a matter of fact, - I --

C: Well --

McR: As you understand, so far as I'm concerned, I'm merely an intermediary here and I don't -

C: Let me ask you this, Mac, is there anyone pressing this thing?

McR: No - I haven't had any pressure on it.

C: Well I mean by that, you say, 'how long the thing will hold' - Is there - is there any particular person who is pressing for the disposal of this matter?

McR: NO, no -

C: I want to - here's what I thought, I can't answer that thing, Mac, as I told you -

McR: Yes

C: - without going into the whole motive. It's a matter of my own personal life and Early is the fellow that set this thing in - you know all the detail of it. And I thought if I - if I answered it now it would only throw the thing into a row at a time when I thought maybe it wasn't a good thing to have a row. Could I come over and see you a few minutes?

McR: Surely

C: I'll come over, Mac.

McR: All right, goodbye.



DEPARTMENT OF STATE
WASHINGTON

June 16, 1936

*One copy in cable
file. m. H.
5/4/37*

My dear Mr. Secretary:

I enclose five copies of a paraphrase of a further telegram from Berlin (Embassy's 179, June 13, 2 p.m.) regarding the German reaction to the Treasury decision regarding countervailing duties on certain imports from Germany.

Sincerely yours,

Enclosure:
From Berlin,
No. 179, June 13, 1936.

The Honorable

Henry Morgenthau, Jr.,

Secretary of the Treasury.

Department of State

BUREAU

SECTION

WE

ENCLOSURE

TO

Letter drafted **June 16**

ADDRESSED TO

**The Secretary of the
Treasury**

Paraphrase of telegram received

FROM: American Embassy, Berlin

DATE: June 13, 2 p.m.

NO.: 179

CONFIDENTIAL

We have gained the impression from conversation and general comment here that considerable feeling has been aroused in Government circles by the Treasury decision. Its abruptness is deplored by the Germans who consider it unfortunate, especially at a time when they are making every effort in a number of ways, by visits and conversations in Washington, and so forth, to endeavor to bring about a general improvement in economic financial relations between Germany and America.

While the Germans clearly would not wish to do so, we have the impression that they may be obliged to consider the principles of application of their own protective legislation unless some satisfactory arrangement can be arrived at between now and July 11 and methods discovered which would isolate the Treasury decision at least until the cause for the selection of the present for its issuance could be ascertained and remedial measures found, thus permitting the present continuance of German-American trade.

Although

-2-

Although we have no detailed background, we have the feeling that the present obstacle provides a certain bargaining advantage which we might employ usefully in an effort towards an improvement in relations between Germany and the United States.

EA:DJW

Paraphrase of telegram received

FROM: American Embassy, Berlin

DATE: June 13, 1931.

NO.: 178

CONFIDENTIAL

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Although

-2-

Although we have no detailed background, we have the feeling that the present details provide a certain bargaining advantage which we might employ usefully in an effort towards an improvement in relations between Germany and the United States.

EA:RUV

Paraphrase of telegram received**FROM: American Embassy, Berlin****DATE: June 13, 1934.****NO.: 179****CONFIDENTIAL**

We have gained the impression from conversation and general comment here that considerable feeling has been aroused in Government circles by the Treasury decision. Its abruptness is deplored by the Germans who consider it unfortunate, especially at a time when they are making every effort in a number of ways, by visits and conversations in Washington, and so forth, to endeavor to bring about a general improvement in economic financial relations between Germany and America.

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Although

-2-

Although we have no detailed background, we have the feeling that the present situation provides a certain bargaining advantage which we might employ usefully in an effort towards an improvement in relations between Germany and the United States.

EA:DJF

Paraphrase of telegram received

FROM: American Embassy, Berlin

DATE: June 13, 1934.

NO.: 179

CONFIDENTIAL

We have gained the impression from conversation and general comment here that considerable feeling has been aroused in Government circles by the Treasury decision. Its abruptness is deplored by the Germans who consider it unfortunate, especially at a time when they are making every effort in a number of ways, by visits and conversations in Washington, and so forth, to endeavor to bring about a general improvement in economic financial relations between Germany and America.

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Although we have no detailed background, we have the feeling that the present rhetoric provides a certain bargaining advantage which we might employ usefully in an effort towards an improvement in relations between Germany and the United States.

EA:DJW

TREASURY DEPARTMENT

13

INTER OFFICE COMMUNICATION

DATE June 16, 1936.

TO Secretary Morgenthau:
(Through Mr. Oliphant)
FROM W. R. Johnson, Acting Chief Counsel of Customs.

Re: German subsidies.

My oral report to you this afternoon may be summarized as follows:

Dr. Meyer of the German Embassy talked with Assistant Secretary Gibbons and me in Mr. Gibbons' office this morning. Meyer stated that the Embassy had received cabled instructions from Berlin which crossed in transmittal the cabled report of his interview last week with Mr. Gibbons and myself.

Pursuant to the instructions, the German Ambassador sent a note verbale to the State Department in which he formally objected to the Treasury's countervailing duty order of June 4. A copy of the note, together with a translation, is attached. It will apparently require no action by the Treasury beyond acknowledgement to the State Department of the copy which probably will be submitted from that office.

Meyer was further instructed by his Government to obtain advice from the Treasury, by informal oral inquiry, as to

- (1) whether the effective date of the order can be postponed altogether, or, if this is impracticable, at least insofar as it may apply to goods involved in contracts made prior to the order; and
- (2) whether German experts could come from Berlin to discuss with Treasury officials the objects and requirements of our countervailing duty law with a view to acquiring an understanding of our views concerning the law which would facilitate the contrivance by the Germans of some procedure for financing German-American trade.

As to the first point, Dr. Meyer was advised that neither Mr. Gibbons nor I could give a definitive answer. I stated, however, that I did not believe the effective date of the order could be postponed beyond July 12, and that I thought it likely that a ruling to that effect would be made very soon, if it had not already been made.

No views were expressed by Mr. Gibbons or myself concerning the second point. Since the inquiry is somewhat involved and Meyer is

not permitted to present it in writing, it was agreed that I should express my understanding of the matter in a memorandum to be reviewed by Meyer in my office at 9 o'clock Thursday morning. I have no doubt that the purpose of the experts' visit would be to obtain some kind of assurance that one or more plans proposed by them would avoid the imposition of countervailing duties. Mayer stated definitely and with considerable emphasis that he knew no such assurances could be given, but he was very anxious to get the experts here as soon as possible, apparently in order that something might be worked out before July 12.

- - - - -

With reference to the numerous requests which have been received from American importers and exporters for a postponement of the effective date of the countervailing duty order, I advised you that I know of no authority of law or precedent for such postponement, and that in my opinion the effect of such a postponement would be a nullification of the law which could not be justified.

40
W. R. Johnson

TREASURY DEPARTMENT

OFFICE OF THE CHIEF CLERK

6/16

For

Mr. Johnson

in

Mr. Bernard's
office, Rm. 170

TRANSLATION

German Embassy

Washington, D. C., June 15, 1936.

Mr. Secretary of State!

I have the honor of making the following communication to Your Excellency in behalf of my Government.

The German Government has taken notice of the issue of a decree of the United States Treasury Department of June 4 (T.D. 48360), according to which certain groups of merchandise, exported from Germany directly or through a third country to the United States, are to be subjected, beginning July 12 of this year, in addition to the usual Customs duties upon entering the American domestic trade, to a special furnishing of security and subsequent special Customs duties on the basis of Section 303 of the 1930 Tariff Act.

In the note from the foreign office to the American Ambassador in Berlin, dated March 20, 1936, the German Government had already set forth the reasons for which, in view of the abnormal currency conditions in the world, special measures for the adjustment of the Valuta are indispensable, if the German exportation to the United States is not to be practically entirely tied up, which would also necessarily give rise to unpleasant consequences for the American exporters. In the note the German Government has further justified its conviction according to which the protective measures of Section 303 of the 1930 Tariff Act issued by the American legislators for an entirely different state of affairs, cannot find application to the method of adjusting the Valuta used in the German export to the United States.

The pertinent arguments in the aforementioned note are upheld by the German Government. The Government is unable to see any satisfactory means for clearing up the situation in the possibility given by the 1930 Tariff Act of following the

legal path of the American Customs Courts after the imposition of special duties on the basis of the decree of the Treasury. The German Government finds itself compelled, therefore, to raise objection against the Decree of the United States Treasury of June 4 mentioned in the beginning of this note.

Please accept, Mr. Secretary of State, the renewed assurance of my greatest respect.

(signed) LUTHER

To His Excellency,
The Secretary of State
of the United States of America,
Mr. Cordell Hull,
Washington, D. C.

Translated by Dr. Schwarz, Mint Bureau, Room 188.

ische Botschaft

Washington, D.C., den 15. Juni 1936.

- 2 -

In der Note des Ausschusses habe
Herr Staatssekretär !

an den Amerikanischen Botschafter in Berlin vom

Duorer Exzellenz beehre ich mich im
20. März 1936 hat die Deutsche Regierung bereits

Auftrage meiner Regierung folgende Mitteilung zu

machen. Derselben annehmen. Wahrungsvorläufige in

der Welt be Die Deutsche Regierung hat von dem

Erlaß einer Verordnung des Schatzsents der Vereinigten

Staaten vom 4. d. Mts. (T. E. 48360) Kenntnis genommen,

nach welcher gewisse Warengruppen, die von Deutschland

unmittelbar oder über ein drittes Land nach den Ver-

einigten Staaten ausgeführt werden, vom 12. Juli d. J.

an neben der üblichen Versollung bei der Einfuhr

in den amerikanischen Inlandsverkehr einer besonderen

Sicherheitsleistung und nachträglicher Veranlagung von

Sonderfällen auf Grund des Abschnitts 103 des Tariff

Act of 1930 unterworfen werden sollen. Der Deutschen

Seiner Exzellenz an den Botschafter der Vereinigten Staaten geboten in

dem Staatssekretär

der Vereinigten Staaten von Amerika,

Herrn Cordell Hull,

Washington, D.C.

- 2 -

In der Note des Auswärtigen Amtes an den Amerikanischen Botschafter in Berlin vom 20. März 1936 hat die Deutsche Regierung bereits die Gründe dargelegt, aus denen im Hinblick auf die derzeitigen anormalen Währungsverhältnisse in der Welt besondere Maßnahmen des Valutaausgleichs unerlässlich sind, wenn die deutsche Ausfuhr nach den Vereinigten Staaten nicht etwa praktisch völlig unterbunden werden soll, woraus sich auch für die amerikanischen Exporteure notwendigerweise unerfreuliche Folgeerscheinungen ergeben würden. Sie hat in der Note ferner ihre Überzeugung begründet, wonach die von dem amerikanischen Gesetzgeber für einen gänzlich anderen Tatbestand erlassenen Schutzvorschriften des Abschnitts 3030 des Tariff Act of 1930 auf die bei der deutschen Ausfuhr nach den Vereinigten Staaten geübten Valutaausgleichsmethoden keine Anwendung finden können.

Die

- 3 -

Die einschlägigen Ausführungen in der erwähnten Note hält die Deutsche Regierung aufrecht. Sie vermag auch in der nach dem Tariff Act of 1930 zwar gegebenen Möglichkeit der Beschreitung des Rechtsweges vor den amerikanischen Zollgerichten nach erfolgter Veranlagung und Erhebung von Sonderzöllen auf Grund der Verordnung des Schatzamts kein befriedigendes Mittel zur Klärung der Lage zu erblicken. Die Deutsche Regierung sieht sich daher gezwungen, gegen die eingangs erwähnte Verordnung des Schatzamts der Vereinigten Staaten vom 4. d. Mts. Einspruch zu erheben.

Genehmigen Sie, Herr Staatssekretär, die erneute Versicherung meiner ausgezeichnetsten Hochachtung.

gez. LUTHER.

June 16, 1936

Bell gave me this statement yesterday in response to the request I made while on the Farm last week. Harry Hopkins and I discussed these expenditures all of last evening. Today I have asked Bell to get me more figures along the same line. This is how they propose to spend for the first six months out of the 1 billion 425.

Until I called Bell up from the Farm and asked him to collect these figures for me, nobody in the Administration had taken a single step towards looking forward to the allocation of the 1 billion 425.

ESTIMATED EXPENDITURES (IN MILLIONS OF DOLLARS)
FROM EMERGENCY FUNDS FOR EACH MONTH OF THE PERIOD JULY 1 TO DECEMBER 31,
1936, AND THE NUMBER OF PERSONS EMPLOYED THEREBY BY SUCH
EXPENDITURES

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
Expenditures							
Prior Emergency funds							
Works Progress Administration	75	140	15	10	5	5	150
Resettlement Administration	16	16	11	8	7	5	63
Emergency Conservation Work	30	6	5	5	4		50
Reclamation	7	7	6	6	6	6	38
Rivers and Harbors	16	14	13	10	8	6	67
Public Highways	26	31	35	36	28	25	181
Public Works Administration	69	78	66	66	51	55	385
Total prior funds	239	192	151	141	109	102	934
New Funds							
Works Progress Administration	100	130	150	150	160	175	865
Resettlement Administration	10	11	12	13	13	13	72
Emergency Conservation Work	6	30	31	31	32	36	166
Public Works Administration		5	10	15	20	25	75
Total new funds	116	176	203	209	225	249	1,178
Grand Total	355	368	354	350	334	351	2,112
Direct Employment							
							Average per month
Prior Emergency funds							
Works Progress Administration	-	-	-	-	-	-	-
Resettlement Administration (1)....	149,000	149,000	149,000	149,000	149,000	149,000	149,000
Emergency Conservation Work	-	-	-	-	-	-	-
Reclamation	12,100	12,500	12,300	12,300	11,900	11,500	12,100
Rivers and Harbors (2)	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Public Highways	336,000	300,000	260,000	233,000	176,000	150,000	242,500
Public Works Administration	340,000	380,000	383,000	322,000	252,500	272,500	315,000
Total from prior funds ..	787,100	791,500	694,300	666,300	539,400	533,000	668,600
New funds							
Works Progress Administration	2,350,000	2,350,000	2,350,000	2,400,000	2,650,000	2,900,000	2,500,000
Resettlement Administration (1) ...	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Emergency Conservation Work (2) ...	385,600	385,600	385,600	385,600	385,600	385,600	385,600
Public Works Administration		25,000	47,000	72,000	96,000	119,000	59,500
Total from new funds ...	2,785,600	2,806,600	2,832,600	2,907,600	3,181,600	3,454,600	2,995,100
Grand Total	3,572,700	3,600,100	3,526,900	3,573,900	3,721,000	3,987,600	3,663,700

(1) Average monthly employment only available. In addition a total number of 717,600 farm families will receive benefits from this expenditure but this number can not be distributed by months or according to prior or new funds.

(2) Average monthly employment only available.

Tuesday
June 16, 1936
4:28 p. m.

H. M.
Cochran: Hello

HMjr: Hello

C: Hello, Mr. Morgenthau

HMjr: Yes

C: This is Cochran.

HMjr: Go ahead.

C: I met with the Minister this evening at eight-fifteen.

HMjr: Yes

C: I gave him the message which you gave me yesterday.

HMjr: Yes

C: He said that it was just a question of an arrangement between you and the people across the Channel --

HMjr: I don't get that.

C: - involving a move downward by him.

HMjr: You'll have to repeat, I don't get it.

C: I say I spoke to him about an arrangement. He said if the arrangement simply consisted -

HMjr: Yes

C: - of our two people, you and the one across the Channel -

HMjr: Yes

C: - holding steady -

HMjr: Yes

C: while he went down -

HMjr: Yes

C: - that was still absolutely impossible.

HMjr: Yes

C: He said - I -- he referred to a plan of a series of bilateral agreements.

HMjr: Yes

C: I said that we found that a bit complicated.

HMjr: Yes

C: He insisted that it was neither complicated nor difficult and that any action on the part of his country -

HMjr: Yes

C: - could only come from a general pact - a stabilization pact.

HMjr: I don't get you at all tonight.

C: He said that any action on the part of his government -

HMjr: Yes

C: - could only come from a general stabilization pact -

HMjr: Yes

C: - or agreement -

HMjr: Yes

C: - wherein several countries -

HMjr: Yes

C: - agreed upon the limits of their respective currencies, -

HMjr: Yes

C: - And wherein certain economic problems were adjusted.

HMjr: Yes

C: I remarked, as I did the other night, that we had just completed a trade agreement with them -

HMjr: Yes

C: - and that I thought we were contributing something now to help him with his problems-

HMjr: Yes

C: - in giving him the foregoing information.

HMjr: Yes

C: - Which, I pointed out, was in contradiction of the reports in the British Press.

HMjr: Now wait a minute, Cochran -

C: Yes

HMjr: This is too important, I think, to put on the telephone. When can you get a cable off?

C: - now, it's half past ten - I can -

HMjr: What's that?

C: It's half past ten here now, you see?

HMjr: Yes

C: I'm afraid I can't get one off until morning. The code clerks are off, you see?

HMjr: Well, can't you send for them?

C: Well, I can try it, yes.

HMjr: Well, I'd send for them and get it off, because --

C: Well, I'll do it.

HMjr: Because I don't want this on the telephone. I'm afraid.

C: I see.

HMjr: If you can get your code clerks and send for them and get it off I'll arrange with the State Department because I've got an appointment with my chief at nine-fifteen tomorrow morning and I'd like to take it over there.

C: Surely

HMjr: I'll arrange to get it decoded tonight here if you send it.

C: Well, I'll get the fellows on the job then.

HMjr: Because it's four-thirty here and you'll get it - I ought to get it decoded during the night.

C: Yes, all right. - hello?

HMjr: Hello - hello?

C: Hello -

HMjr: Because this is too important.

C: I mean it was pretty definite. And he has a man on the way to Washington.

HMjr: He has a man?

C: - on the way to Washington, to see you.

HMjr: Oh, really?

C: Monnick

HMjr: Hello?

C: The man from London is on the way to see you.

HMjr: I see.

C: You know who he is?

HMjr: Yes, Monnick -

C: That's right.

HMjr: Well, I'll tell you what you do, you put this all into a cable -

C: Yes

HMjr: - Is Monnick on the ocean?

C: He's on the ocean now, with a message for you from my contact here -

HMjr: Yes

C: - and one to the President from Blum.

HMjr: Really?

C: Yes

HMjr: Uh huh -

C: He is on holiday from London, so they sent him over there to be in touch with you people.

HMjr: When will he get here?

C: In about three days, they told me.

HMjr: Yes - Well, you'd better put it all in a cable and I'll get the very first thing tomorrow morning and then I'll call you tomorrow.

C: All right.

HMjr: I think that's the best way.

C: All right, well I'll get busy now and get my code clerks -

HMjr: Yes!

C: - and I'll get this off yet tonight.

HMjr: O. K., thank you.

C: All right.

HMjr: Thank you.

C: Goodnight

HMjr: Goodbye.

Complete?

TELEGRAM RECEIVED

FROM: American Embassy, Paris

DATE: June 16, 11 p.m.

NO.: 505

FROM COCHRAN

At 8:15 this evening the Minister of Finance received me. He had just returned, ~~coming~~ from participating in the defense of the labor measures of the Government before the Senate.

The Minister was informed that I had been confidentially and personally informed by the Secretary of the Treasury that the latter thought this was an opportune time for France to act in the monetary field and that if his advice were sought, he would counsel devaluation immediately, inasmuch as delays, as evidenced by the American experience, would only make the problem more difficult. I also told the Minister that I was informed that conditions were apparently most favorable for him to act, in so far as concerns both Great Britain and the United States. I told him that these two countries had in mind a limit beyond which the franc could not go without causing them some disturbance. Moreover, the two agreed upon this limit. I understood that the British preferred to be approached directly and that they would be sympathetic if he approached them.

The

-2-

The Minister's answer to this was that if I were suggesting that favorable conditions exist for a simple triangular arrangement which involves France devaluing and the pound and the dollar standing still, this is absolutely impossible. I replied that the plan of a series of bilateral agreements such as he had suggested in my last conversation with him seemed somewhat complicated to my friends in Washington. It was neither difficult nor complicated, he insisted, and any action on France's part could only come in a larger general stabilization arrangement wherein a number of countries agreed upon the limits for their respective currencies and wherein adjustments were made of certain economic problems. As at our previous interview, I remarked that we had just finished a trade pact with France and I thought we were adding something to help him with his problems in giving the foregoing information, in contradiction of reports in the British press that the British and Americans can reach no agreement on the matter.

When the Minister asked if Mr. Morgenthau had told me the rate of devaluation of the franc which the British and Americans could stand, my reply was negative. The Minister then informed me that, taking advantage of the holidays of Monnick, the French Financial Attaché at London, he had sent him to the United States for a while to contact my people in Washington. At the present time Monnick is on the

Atlantic

-3-

Atlantic Ocean with a message to President Roosevelt from Premier Blum and one to Secretary Morgenthau from the Minister of Finance. Monnick is so well acquainted in the United States, the Minister thought he should be of much assistance at this time at Washington in serving as the French Financial Liaison Officer. The Minister added that he wished to keep in touch with me here.

As you undoubtedly know, Monnick is a devaluationist as is Baumgartner of the Movement of Funds Section of the Ministry who is engaged at the present time on important policy matters, including the drafting of a bill to revise the statutes of the Bank of France. Labeyrie, who has not given up his salary at his former post in the General Audit Office, and is presumably only loaned to the Bank of France, has been devoting his entire time to this bill.

The Minister of Finance, who impressed me as being tired and worried, said that he had a hard session this afternoon at the Senate. The Minister realizes the importance attached to his declarations to be made on Thursday since the press and public are increasingly dubious as to the new Government's ability to save the franc while reflatting and with the Senate financial experts critical of such an uncertain program.

June 16, 1938

Bell just came in and told me that the Flood Relief bill had passed and calls for an appropriation of \$50,000,000 and that the President has called a meeting on it to which I am not asked.

I told Bell to tell the President for me that, as Secretary of the Treasury, I want "my day in court" before he sends up a request to Congress for \$50,000,000 for flood relief and I think that this thing can go over until January. I want to see him in order to protect him so that he will stay within his Budget.

(Note: I know that he will not ask me to come to the White House.)

June 16, 1936

The following met with the Secretary to discuss the bill introduced yesterday by Senator Thomas "to authorize the President to continue the stabilization fund for two additional years after January 30, 1937 and for other purposes." Copy of this bill is attached, in typewritten form. (Exhibit I) McReynolds; Oppen; Hester; Upham; Lochhead and Viner. The following is stenographic report.

Oppen: I suppose the first thing is to give a resume of this legislation. Would you like to have it before you? The first section ...

HM, Jr.: Maybe you had better let me read it. Three additional years?

Oppen: It is for three additional years by striking out the words "one additional year" in the original Act. That makes it two more years.

HM, Jr.: What's this lawful money business? We don't want to bring that in.

Oppen: It really makes very little change in existing law. I think he had in mind doing something more than he really is doing, but our view of the rest of this bill is it ought to be put over.

HM, Jr.: Yes. I agree with you. There is no argument about that. If it is going to be anything it should be a straight stabilization thing and nothing else.

Oppen: One other point I want to mention. But you don't have in mind that you want me to go through this, section by section, do you now and give you any comment on itseffect?

HM, Jr.: No.

Oppen: There are only two points. I spoke to Mr. Oliphant over long distance telephone last night and, of course, he could not get the background of your conversations, etc., but his feeling was without having that, subject of course to any definite opinion that you might have, that it might be preferable to handle this merely by making no comment at all and I have prepared a letter in nearly the words he suggested. I have also got another alternative.

-2-

HM, Jr: Before you get to that. Somebody -- Lochhead or Viner -- pointed out to me that in extending this stabilization fund for two years they don't extend the right to devalue.

Lochhead: That's right.

Opper: In this other letter we have handled that this way: we don't recommend one way or the other, but we merely call to Thomas' attention the fact that the right to devalue will terminate at the same time as the stabilization fund, the thought being that that does not make any recommendation to him for legislation which he has not introduced, but at the same time it calls it to his attention so that, in the first place, he can never say that the Treasury kept anything from him and, in the second place, puts you in position where if he calls you and asks you if you want him to put it in you can say yes, having put it in the letter.

HM, Jr.: That is part of the authority to devalue?

Opper: It was originally a part of the Thomas amendment to the Emergency Farm Mortgage Act and was amended by the Gold Reserve Act to include that provision to being limited to one year.

HM, Jr: But the last time we got the stabilization fund extended?

Opper: We extended them both by proclamation and I might say that when we prepared the legislation, to get ready to accomplish in effect what Thomas has done here, we included them both. I suppose that legislation did not go down.

HM, Jr: Let me ask Hester this, first. You see, the thing that I am afraid of -- let's say that Thomas says to you, I will do anything that the Secretary wants. Well, he does. But he told you, Don't do anything over in the House; I will take care of that.

Hester: He said this: "I wouldn't do anything over there now and see if we can't get it through this afternoon and then you can start work tomorrow morning."

HM, Jr: This is the point. The worst thing that can happen to the Treasury would be to have this thing bungled. This isn't any small stuff. Do any of you know Thomas?

-3-

Hester: I know him to talk to.

HM,Jr: Can you trust him?

Hester: I am not sure that I can say that. I don't know him well enough to say that. But I should think the presumption is very much in his favor. I have never heard anything about his distrust. He seemed rather sincere about the thing and pleased that you would come along with him and he said he would accept it in any form.

HM,Jr: Yes; but suppose it goes over to the House and they begin putting amendments on this thing. Can they control that?

Hester: I think that can be controlled.

Viner: Does it have to go to the Committee?

Hester: It probably would in the House.

Viner: What committee?

Hester: The Banking Committee.

HM,Jr: I can't do anything with Steagall.

Upham: Goldsborough is running the Committee. Steagall is still away.

HM,Jr: I called Robinson and he was very lukewarm on this thing before.

Viner: It seems to me, if it is introduced with all those things attached, they won't drop off automatically. You have just opened up a whole money debate.

HM,Jr: You see, they don't get the significance in this thing; what it means to the United States abroad. They just don't get it.

McReynolds: I think it's dynamite.

Viner: I think it should be introduced on the part of the Administration who will put it in the form you want. The form ought to be drafted here and not come from Senator Thomas.

-4-

HM, Jr.: We decided not to do anything two or three weeks ago.

Viner: Because you are going to do it after election and, as I say, it should be submitted then as an Administration draft.

Upham: Upham: I would very much prefer to wait until the next session if anything is going to be done by the Administration. If it is branded with the Thomas name it may have some advantages and I think there would be some disadvantages.

HM, Jr.: How did you leave it with Thomas, Hester?

Hester: I was to bring him a letter this morning on this bill, suggesting, if you care to do so, striking out everything else in the bill except stabilization.

HM, Jr.: I am all mixed up in this tax bill. Until I can get George straightened out and George can get me straightened out, I will just have to let the thing slide until I hear from Senator Robinson.

Hester: If we don't hear anything from you, we will tell him that you talked to Senator Robinson and Senator Robinson is going to get in touch with him, or would you rather we not do anything.

Viner: I think Hester ought to say that the Secretary because of pressure of other business hasn't got to it.

McReynolds: I think that's the answer. I don't think he ought to tell Thomas anything about your contact with Robinson. Let Robinson do that.

Hester: Of course, I went to see Thomas voluntarily yesterday afternoon and we don't want to make an enemy of him.

HM, Jr.: You can go to see him again. Don't stay away. But tell him you can't get the letter because the boss is tied up until later in the day.

Exhibit I

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S. 4774

IN THE SENATE OF THE UNITED STATES

June 15, 1936

Mr. Thomas (Oklahoma) introduced the following bill -

A BILL

To authorize the President to continue the stabilization fund for two additional years after January 30, 1937, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (c) of Section 10 of the Gold Reserve Act of 1934, is amended by striking out the words "one additional year" and inserting in lieu thereof "three additional years".

SEC. 2. That on or before January 1, 1937, gold certificates, Treasury notes of 1890, national bank notes, and federal reserve bank notes may be redeemed in lawful money on demand at the Treasury Department of the United States, in the City of Washington, District of Columbia, or at any federal reserve or member bank. After January 1, 1937 such certificates and notes may be redeemed in lawful money on demand only at the Treasury Department of the United States, in the City of Washington, District of Columbia.

SEC. 3. When any silver certificates are redeemed or received into the Treasury from any source whatsoever, and belong to the United States, they shall not be retired, cancelled, or destroyed, but shall be re-

-2-

issued and paid out again and kept in circulation; but nothing herein shall prevent the cancellation and destruction of mutilated certificates and the issue of other certificates of like denomination in their stead, as provided by law.

SEC. 4. Paragraph (b) (2) of Section 43, Title III, of the Act approved May 12, 1933 (48 Stat. 31), as amended, is amended by striking out "50 percentum" and inserting in lieu thereof "40 per centum".

SEC. 5. Section 6 of the Gold Reserve Act of 1934 is hereby repealed.

SEC. 6. The Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act.

MEMORANDUM

June 16th, 1936.

At 3:45 p.m. on June 16th, the Secretary considered the closing agreement proposed in the case of T. Jefferson Coolidge, et al., Trustees, covering the years 1928 and 1931, involving the payment of taxes assessed in the aggregate amount of \$27,284.42 and the denial of a claim for refund. Deputy Commissioner of Internal Revenue King, who handled the case for the Commissioner and Mr. Hanson, of the legal staff, who handled the case for the General Counsel's Office and Mr. McReynolds were present.

Mr. King stated that in 1928 there was a reorganization of the business involved in this estate in which certain stocks were exchanged. Mr. Coolidge reported a profit for the year 1928 of about \$216,000.00 and a tax liability of \$27,121.00. Subsequently, he filed a claim for refund - claiming that the transaction came under the Supreme Court's decision in the Minnesota Teak case. On consideration of this refund claim, the Regulations Section of Internal Revenue held that the refund should be allowed, but the General Counsel's Office did not concur. If the refund had been allowed, the profit would have been shifted to the 1931 year resulting in an additional tax liability of about \$10,000. It was finally decided to close the case by denying the refund, abandoning a proposed deficiency tax for 1931 and collecting the taxes as originally assessed. The reason for closing the case by means of a closing agreement was to protect the Government against the possibility of a suit being brought for refund after the expiration on June 30 of this year of the period during which a deficiency assessment could be asserted for the 1931 year.

It developed on inquiry from the Secretary that this claim was not presented by a lawyer, but directly by Mr. Coolidge.

Mr. Hanson stated that there are on an average of from ten to fifteen of these closing agreements presented each month.

The Secretary instructed that while he was in Washington all closing agreements shall be approved by him personally. He also instructed that for the present each closing agreement presented shall be brought over personally by Mr. King and Mr. Hanson and explained in person to the Secretary.

McR:gmc

June 17, 1936

My dear Mr. President:

I am inclosing herewith preliminary estimates which were requested by Senator Barkley last night at 11:25 and 15 seconds.

Proposal A-3 is the one favored by the Senate conferees. You will note that this would produce \$658,000,000 additional revenue. Proposal A-4 is the one suggested by the House conferees and this would raise \$752,000,000.

The Secretary of the Treasury is ready to serve you at any hour that the telephone will wake him.

Faithfully yours,

The President,

The White House.

June 17, 1938

My dear Mr. President:

I am inclosing herewith preliminary estimates which were requested by Senator Barkley last night at 11:25 and 15 seconds.

Proposal A-3 is the one favored by the Senate conferees. You will note that this would produce \$882,000,000 additional revenue. Proposal A-4 is the one suggested by the House conferees and this would raise \$752,000,000.

The Secretary of the Treasury is ready to serve you at any hour that the telephone will wake him.

Faithfully yours,

The President,

The White House.

Conference Committee Proposal No. A-1 (A-19)

I. Tax Provisions

1. Retain present taxes on statutory net income as now defined.
2. Retain present capital stock and excess profits taxes.
3. Repeal exemption of dividends from normal tax on individuals.
4. Define adjusted net income as the statutory net income less ordinary corporation income taxes plus 90 percent of dividends received. Define undistributed adjusted net income as adjusted net income less dividends paid, and a special credit of \$2,000. Impose a tax on undistributed adjusted net income equal to the sum of the following:

- 0 percent of the amount of the undistributed adjusted net income which is not in excess of 20 percent of the adjusted net income.
- 10 percent of the amount of the undistributed adjusted net income which is in excess of 20 percent and not in excess of 40 percent of the adjusted net income.
- 15 percent of the amount of the undistributed adjusted net income which is in excess of 40 percent and not in excess of 60 percent of the adjusted net income.
- 20 percent of the amount of the undistributed adjusted net income which is in excess of 60 percent and not in excess of 80 percent of the adjusted net income.
- 25 percent of the amount of the undistributed adjusted net income which is in excess of 80 percent of the adjusted net income.

II. Estimated Revenue, Calendar Year 1936

Estimated net increase from above proposals, as follows:

Surtaxes on individuals	\$ 115 millions
Normal tax on individuals	108 millions
Surtaxes on corporations	176 millions
Total	\$ 399 millions

These estimates assume no changes in existing law other than those cited above and assume that the new law, as enacted, will contain provisions which will prevent any avoidance of the above taxes.

June 15, 1936.

Preliminary Estimate

Conference Committee Proposal No. A-2 (A-20)

I. Tax Provisions

1. Retain present taxes on statutory net income as now defined.
2. Retain present capital stock and excess profits taxes.
3. Repeal exemption of dividends from normal tax on individuals.
4. Define adjusted net income as the statutory net income less ordinary corporation income taxes plus 90 percent of dividends received. Define undistributed adjusted net income as adjusted net income less dividends paid, and a special credit of \$2,000. Impose a tax on undistributed adjusted net income equal to the sum of the following:
 - 5 percent of the amount of the undistributed adjusted net income which is not in excess of 20 percent of the adjusted net income.
 - 10 percent of the amount of the undistributed adjusted net income which is in excess of 20 percent and not in excess of 40 percent of the adjusted net income.
 - 15 percent of the amount of the undistributed adjusted net income which is in excess of 40 percent and not in excess of 60 percent of the adjusted net income.
 - 20 percent of the amount of the undistributed adjusted net income which is in excess of 60 percent and not in excess of 80 percent of the adjusted net income.
 - 25 percent of the amount of the undistributed adjusted net income which is in excess of 80 percent of the adjusted net income.

II. Estimated Revenue, Calendar Year 1936

Estimated net increase from above proposals, as follows:

Surtaxes on individuals	\$ 203 millions
Normal tax on individuals	118 millions
Surtaxes on corporations	190 millions
Total	\$ 511 millions

These estimates assume no changes in existing law other than those cited above and assume that the new law, as enacted, will contain provisions which will prevent any avoidance of the above taxes.

June 15, 1936.

Preliminary Estimate

Conference Committee Proposal No. A-3

I. Tax Provisions

1. Impose following graduated rates of corporation income tax on statutory net income as now defined:

\$ 0 - 5,000	- 10 percent
5,000 - 20,000	- 12 percent
Over \$20,000	- 15 percent

2. Retain present capital stock and excess profits taxes.
3. Repeal exemption of dividends from individual normal tax.
4. Define adjusted net income as the statutory net income less the ordinary corporation income taxes plus 90 percent of dividends received. Define undistributed adjusted net income as adjusted net income less credit for dividends paid, and in the case of corporations with statutory net incomes of \$15,000 or less, a special credit of \$3,000. Impose a tax on undistributed adjusted net income equal to the sum of the following:

4 percent of the amount of the undistributed adjusted net income which is not in excess of 10 percent of the adjusted net income.

10 percent of the amount of the undistributed adjusted net income which is in excess of 10 percent and not in excess of 20 percent of the adjusted net income.

15 percent of the amount of the undistributed adjusted net income which is in excess of 20 percent and not in excess of 30 percent of the adjusted net income.

20 percent of the amount of the undistributed adjusted net income which is in excess of 30 percent and not in excess of 40 percent of the adjusted net income.

30 percent of the amount of the undistributed adjusted net income which is in excess of 40 percent of the adjusted net income.

II. Estimated revenue, calendar year 1936

Estimated net increase in revenue \$658 millions

These estimates assume no changes in existing law other than those cited above and assume that the new law as enacted will contain provisions which will prevent any avoidance of the above taxes.

June 17, 1936

Preliminary Estimate

Conference Committee Proposal No. A-4

I. Tax Provisions

1. Impose following graduated rates of corporation income tax on statutory net income as now defined:

\$ 0 - 2,000	5 percent
2,000 - 15,000	6 percent
15,000 - 40,000	7 percent
Over 40,000	8 percent

2. Retain present capital stock and excess profits taxes.
3. Repeal exemption of dividends from individual normal tax.
4. Define adjusted net income as the statutory net income less the ordinary corporation income taxes plus 90 percent of dividends received. Define undistributed adjusted net income as adjusted net income less credit for dividends paid.

- (a) Impose a tax on the undistributed adjusted net income of corporations with statutory net income of \$10,000 or less equal to the sum of the following:

8 percent of the amount of the undistributed adjusted net income which is not in excess of 10 percent of the adjusted net income.

13 percent of the amount of the undistributed adjusted net income which is in excess of 10 percent and not in excess of 20 percent of the adjusted net income.

18 percent of the amount of the undistributed adjusted net income which is in excess of 20 percent and not in excess of 30 percent of the adjusted net income.

23 percent of the amount of the undistributed adjusted net income which is in excess of 30 percent of the adjusted net income.

- (b) Impose a tax on the undistributed adjusted net income of corporations with statutory net incomes of \$40,000 or more equal to the sum of the following:

12 percent of the amount of the undistributed adjusted net income which is not in excess of 10 percent of the adjusted net income.

20 percent of the amount of the undistributed adjusted net income which is in excess of 10 percent and not in excess of 20 percent of the adjusted net income.

25 percent of the amount of the undistributed adjusted net income which is in excess of 20 percent and not in excess of 30 percent of the adjusted net income.

35 percent of the amount of the undistributed adjusted net income which is in excess of 30 percent of the adjusted net income.

- (c) Impose a tax on the undistributed adjusted net income of corporations reporting statutory net incomes in excess of \$10,000 but less than \$10,000 equal to rates proportionate between the rates given in schedules (a) and (b).

II. Estimated Revenue, Calendar Year 1936

Estimated net increase in revenue

\$ 752 millions

These estimates assume no changes in existing law other than those cited above and assume that the new law, as enacted, will contain provisions which will prevent any avoidance of the above taxes.

June 17, 1936

TREASURY DEPARTMENT

38

INTER OFFICE COMMUNICATION

DATE June 17, 1936

TO Secretary Morgenthau

FROM Mr. Haas *HAAS*

The four proposals on which the Conference Committee requested estimates are outlined below. The graduated corporation normal tax remains the same on all four of the proposals but the super tax on undistributed earnings varies as indicated in A, B, C, and D.

The capital stock and excess profits taxes are to remain unchanged and the exemption of dividends from the normal individual income tax is to be repealed.

Normal

8 percent on first \$2,000 of statutory net income			
10	"	on next	8,000 "
12	"	"	10,000 "
14	"	"	20,000 "
15	"	over	40,000 "

Surtaxes

A	B	C	D
7% on first 10% of adjusted net income	6%	6%	7% on first 10%
12% on next 10% "	12%	12%	12% " next 10%
17% " " 20% "	17%	17%	17% " " 10%
22% " " 20% "	22%	22%	22% " " 20%
27% " balance "	27%	25%	27% " balance

668

659

The first bracket of surtaxes on undistributed adjusted net income applies to minimum of \$5,000 but second and succeeding brackets apply to percentage of original adjusted net.

Preliminary Estimate

Conference Committee Proposal No. A6

I. Tax Provisions

1. Impose following graduated rates of corporation income tax on statutory net income as now defined:

\$ 0 - 2,000	8 percent
2,000 - 10,000	10 "
10,000 - 20,000	12 "
20,000 - 40,000	14 "
Over \$40,000	15 "

2. Repeal exemption of dividends from individual normal tax.
3. Define adjusted net income as the statutory net income less the corporation normal tax plus 90 percent of dividends received. Define undistributed adjusted net income as adjusted net income less the credit for dividends paid. Impose a tax on undistributed adjusted net income equal to the sum of the following:
 - 7 percent of the first 10 percent of adjusted net income which is undistributed; corporations with adjusted net income of less than \$50,000 are allowed \$5,000 in this bracket.
 - 12 percent of the next 10 percent of the adjusted net income which is undistributed.
 - 17 percent of the next 20 percent of the adjusted net income which is undistributed.
 - 22 percent of the next 20 percent of the adjusted net income which is undistributed.
 - 27 percent of the balance of the adjusted net income which is undistributed.

II. Estimated Revenue, Calendar Year 1936

Estimated net increase in revenue

\$668 millions

June 18, 1936

TREASURY DEPARTMENT

40

INTER OFFICE COMMUNICATION

DATE June 17, 1936

TO Secretary Morgenthau

FROM Mr. Haas *HA*

Subject: Conference Committee Proposal No. A-5

Mr. Parker this morning telephoned the following proposal to Mr. McLeod, requesting that an estimate be made. This is being computed and should be ready this afternoon.

1. Imposes graduated corporation income taxes ranging from $7\frac{1}{2}$ percent on the first \$2,000 to 15 percent on corporation incomes in excess of \$100,000; thereby substantially extending the graduated scale adopted last year in response to the President's request.

2. Retains present capital stock and excess profits taxes.

3. Repeals exemption of dividends from individual normal tax.

4. Establishes two rate schedules on undistributed adjusted net income. The first, applying to corporations with statutory net income of \$10,000 or less, applies rates of 5, 10, and 15 percent, respectively, to the first three 10-percent segments of undistributed adjusted net income, and 20 percent to the balance.

The second, applying to corporations with statutory net income of \$40,000 or more, applies rates of 10, 17, and 25 percent, respectively, to the first three 10-percent segments of undistributed adjusted net income, and 33 percent to the balance.

The rates for corporations with statutory net income in excess of \$10,000 and under \$40,000 would be proportional between the two schedules.

PRELIMINARY ESTIMATE

Conference Committee Proposal No. A-6

I. Tax Provisions

1. Impose following graduated rates of corporation income tax on statutory net income as now defined, except that 15 percent instead of 10 percent of dividends received is included:

\$ 0 - 2,000	8 percent
2,000 - 10,000	10 "
10,000 - 20,000	12 "
20,000 - 40,000	14 "
Over \$40,000	15 "

2. Repeal exemption of dividends from individual normal tax.
3. Define adjusted net income as the statutory net income less the corporation normal tax plus 85 percent of dividends received. Define undistributed adjusted net income as adjusted net income less the credit for dividends paid. Impose a tax on undistributed adjusted net income equal to the sum of the following:

- 7 percent of the first 10 percent of adjusted net income which is undistributed; corporations with adjusted net income of less than \$50,000 are allowed \$5,000 in this bracket.
- 12 percent of the next 10 percent of the adjusted net income which is undistributed.
- 17 percent of the next 20 percent of the adjusted net income which is undistributed.
- 22 percent of the next 20 percent of the adjusted net income which is undistributed.
- 27 percent of the balance of the adjusted net income which is undistributed.

II. Estimated Revenue, Calendar Year 1936

Estimated net increase in revenue

\$674 millions

June 18, 1936

This estimate assumes no changes in existing law other than those cited above and assumes that the new law, as enacted, will contain provisions which will prevent any avoidance of the above taxes.

PRELIMINARY ESTIMATE

Conference Committee Proposal - No. A7

I. Tax Provisions

1. Impose following graduated rates of corporation income tax on statutory net income as now defined, except that 15 percent instead of 10 percent of dividends received is included.

\$	0 - 2,000	8 percent
	2,000 - 10,000	10 "
	10,000 - 20,000	12 "
	20,000 - 40,000	14 "
	Over \$40,000	15 "

2. Repeal exemption of dividends from individual normal tax.
3. Define adjusted net income as the statutory net income less the corporation normal tax plus 85 percent of dividends received. Define undistributed adjusted net income as adjusted net income less the credit for dividends paid. Impose a tax on undistributed adjusted net income equal to the sum of the following:

6 percent of the first 10 percent of adjusted net income which is undistributed; corporations with adjusted net income of less than \$50,000 are allowed \$5,000 in this bracket.

12 percent of the next 10 percent of the adjusted net income which is undistributed.

17 percent of the next 20 percent of the adjusted net income which is undistributed.

22 percent of the next 20 percent of the adjusted net income which is undistributed.

27 percent of the balance of the adjusted net income which is undistributed.

II. Estimated Revenue, Calendar Year 1936

Net estimated increase in revenue \$ 665 millions

June 18, 1936

This estimate assumes no changes in existing law other than those cited above and assumes that the new law, as enacted, will contain provisions which will prevent any avoidance of the above taxes.

PRELIMINARY ESTIMATE

Conference Committee Proposal - No. A8

I. Tax Provisions

1. Impose following graduated rates of corporation income tax on statutory net income as now defined, except that 15 percent instead of 10 percent of dividends received is included:

\$ 0 - 2,000	8 percent
2,000 - 10,000	10 "
10,000 - 20,000	12 "
20,000 - 40,000	14 "
Over \$40,000	15 "

2. Repeal exemption of dividends from individual normal tax.
3. Define adjusted net income as the statutory net income less the corporation normal tax plus 85 percent of dividends received. Define undistributed adjusted net income as adjusted net income less the credit for dividends paid. Impose a tax on undistributed adjusted net income equal to the sum of the following:

- 6 percent of the first 10 percent of adjusted net income which is undistributed; corporations with adjusted net income of less than \$50,000 are allowed \$5,000 in this bracket.
- 12 percent of the next 10 percent of the adjusted net income which is undistributed.
- 17 percent of the next 20 percent of the adjusted net income which is undistributed.
- 22 percent of the next 20 percent of the adjusted net income which is undistributed.
- 25 percent of the balance of the adjusted net income which is undistributed.

II. Estimated Revenue, Calendar Year 1936

Net estimated increase in revenue

\$658 millions

June 18, 1936

These estimates assume no changes in existing law other than those cited above and assume that the new law, as enacted, will contain provisions which will prevent any avoidance of the above taxes.

CONFERENCE COMMITTEE PROPOSALS
submitted to the Treasury Department at 8p.m., June 17

I. All three of the proposals submitted have the following provisions in common:

- (a) Retain present capital stock and excess profits taxes.
- (b) Repeal exemption of dividends from normal tax on individual incomes.
- (c) Impose following graduated normal taxes on corporation statutory net income as now defined, except that 15 percent instead of 10 percent of dividends received is included:

\$ 0 - 2,000	8 percent
2,000 - 10,000	10 "
10,000 - 20,000	12 "
20,000 - 40,000	14 "
Over \$40,000	15 "

- (d) Define adjusted net income as the statutory net income less corporation normal tax plus 85 percent of dividends received. Define undistributed adjusted net income as adjusted net income less the credit for dividends paid. Impose a tax on undistributed adjusted net income equal to the sum of the following, except that corporations with adjusted net income of less than \$50,000 are allowed \$5,000 in the first bracket:

II. Graduated Surtax Rates on Undistributed Adjusted Net Income

	Proposal <u>A-6</u>	Proposal <u>A-7</u>	Proposal <u>A-8</u>
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On first 10 percent of adjusted net income which is undistributed	7 percent	6 percent	6 percent
On next 10 percent of adjusted net income which is undistributed	12 "	12 "	12 "
On next 20 percent of adjusted net income which is undistributed	17 "	17 "	17 "
On next 20 percent of adjusted net income which is undistributed	22 "	22 "	22 "
On the balance of adjusted net income which is undistributed	27 "	27 "	25 "

III. Estimated Net Increase in Revenue, Calendar Year 1936 Basis

(In millions of dollars)		
674	685	658

IV. The foregoing estimates are based only upon the provisions cited; and they will be affected, perhaps materially, by the character of such "cushion" and sundry other provisions as may be adopted.

June 18, 1936

TREASURY DEPARTMENT

45

INTER OFFICE COMMUNICATION

DATE June 17, 1936

TO Secretary Morgenthau
FROM Herman Oliphant

The morning was spent debating the relative merits of the two proposals that you sent over to the President, with the House members vigorously opposing the one which the Senate members favored and vice versa. There was no progress.

Hill and Vinson are about to propose a compromise which would retain the present corporation income tax but broaden its present graduation of $12\frac{1}{2}$ -15% to $7\frac{1}{2}$ -15% and then superimpose a tax on undistributed earnings as follows: for corporations with incomes of over \$40,000, 10% on the first 10% undistributed; 17% on the second 10%; 25% on the third 10%; and 33% on the balance of the undistributed earnings with a corresponding graduation of from 5 to 20% for small corporations. They submitted this plan to the Treasury for an estimate last night and it is now being worked upon.

Nothing more to report on the morning session.



REVENUE BILL OF 1936

JUNE 19, 1936.—Ordered to be printed

Mr. DOUGHTON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 12395]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12395) to provide revenue, equalize taxation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 44, 45, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 85, 86, 87, 88, 90, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 111, 113, 116, 117, 119, 122, 123, 124, 125, 126, 129, 131, 134, 135, 136, 139, 140, 141, 142, 143, 144, 145, 148, 149, 150, 151, 155, 156, 157, 158, 166, 167, 168, 169, 171, 172, 173, 174, 175, 176, 177, 178, 180, 181, 182, 183, 184, 186, 187, 188, 189, 192, 193, 194, 195, 196, 197, 199, 200, 201, 202, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 221, 223, 224, 225, 226, 227, 228, 229, 230, 231, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 244, 247, 248, 249, 266, 267, 269, 270, 271, 275, 276, 277, 278, 279, 280, 282, 283, 284, 285, 287, and 288, and agree to the same.

That the Senate recede from its amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 68, 82, 83, 115, 120, 127, 146, 152, 159, 160, 161, 191, 198, 220, 222, 43, 250, 251, 260, 261, 264, and 289.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 13. NORMAL TAX ON CORPORATIONS.

(a) *Definition.*—As used in this title the term "normal-tax net income" means the net income minus the sum of—

(1) *Interest on Obligations of the United States and Its Instrumentalities.*—The credit provided in section 26 (a).

(2) *Dividends Received.*—The credit provided in section 26 (b). Such credit shall not be allowed in the case of a mutual investment company, as defined in section 48.

(3) *Dividends Paid.*—In the case of a mutual investment company the credit provided in section 27, computed without the benefit of subsection (b) thereof (relating to dividend carry-over).

(b) *Imposition of Tax.*—There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every corporation, a normal tax as follows:

Upon normal-tax net incomes not in excess of \$2,000, 8 per centum.

\$160 upon normal-tax net incomes of \$2,000; and upon normal-tax net incomes in excess of \$2,000 and not in excess of \$15,000, 11 per centum in addition of such excess.

\$1,590 upon normal-tax net incomes of \$15,000; and upon normal-tax net incomes in excess of \$15,000 and not in excess of \$40,000, 15 per centum in addition of such excess.

\$4,840 upon normal-tax net incomes of \$40,000; and upon normal-tax net incomes in excess of \$40,000, 15 per centum in addition to such excess.

(c) *Exempt Corporations.*—For corporations exempt from taxation under this title, see section 101.

(d) *Banks and Trust Companies.*—For rate of tax on certain banks and trust companies, see section 104.

SEC. 14. SURTAX ON UNDISTRIBUTED PROFITS.

(a) *Definitions.*—As used in this title—

(1) The term "adjusted net income" means the net income minus the sum of—

(A) The normal tax imposed by section 13.

(B) The credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations.

(C) In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the amount allowed as a credit under section 26 (d).

(D) In the case of a national mortgage association created under Title III of the National Housing Act, the amount allowed as a credit under section 26 (e).

(2) The term "undistributed net income" means the adjusted net income minus the sum of the dividends paid credit provided in section 27 and the credit provided in section 26 (c), relating to contracts restricting dividends.

(b) *Imposition of Tax.*—There shall be levied, collected, and paid for each taxable year upon the net income of every corporation a surtax equal to the sum of the following, subject to the application of the specific credit as provided in subsection (c):

7 per centum of the portion of the undistributed net income which is not in excess of 10 per centum of the adjusted net income.

12 per centum of the portion of the undistributed net income which is in excess of 10 per centum and not in excess of 20 per centum of the adjusted net income.

17 per centum of the portion of the undistributed net income which is in excess of 20 per centum and not in excess of 40 per centum of the adjusted net income.

22 per centum of the portion of the undistributed net income which is in excess of 40 per centum and not in excess of 60 per centum of the adjusted net income.

27 per centum of the portion of the undistributed net income which is in excess of 60 per centum of the adjusted net income.

(c) *Adjusted Net Income Less than \$50,000.*—

(1) *Specific Credit.*—If the adjusted net income is less than \$50,000, there shall be allowed a specific credit equal to the portion of the undistributed net income which is in excess of 10 per centum of the adjusted net income and not in excess of \$6,000, such credit to be applied as provided in paragraph (2).

(2) *Application of Specific Credit.*—If the corporation is entitled to a specific credit, the tax shall be equal to the sum of the following:

(A) A tax computed under subsection (b) upon the amount of the undistributed net income reduced by the amount of the specific credit, plus

(B) 7 per centum of the amount of the specific credit.

(d) *Exemption From Surtax.*—The following corporations shall not be subject to the surtax imposed by this section:

(1) Banks as defined in section 104.

(2) Domestic corporations which for any portion of the taxable year are in bankruptcy under the laws of the United States, or are insolvent and in receivership in any court of the United States or of any State, Territory, or the District of Columbia.

(3) Insurance companies subject to the tax imposed under section 201, 204, or 207.

(4) Foreign corporations.

(5) Corporations which, by reason of deriving a large portion of their gross income from sources within a possession of the United States, are entitled to the benefits of section 251.

(6) Corporations organized under the China Trade Act, 1922.

(7) Joint Stock Land Banks organized under the Federal Farm Loan Act, as amended.

(e) *Exempt Corporations.*—For corporations exempt from taxation under this title, see section 101.

(f) *Tax on Personal Holding Companies.*—For surtax on personal holding companies, see section 361.

(g) *Improper Accumulation of Surplus.*—For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see section 102. And the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 26. CREDITS OF CORPORATIONS.

In the case of a corporation the following credits shall be allowed to the extent provided in the various sections imposing tax—

(a) *Interest on Obligations of the United States and Its Instrumentalities.*—The amount received as interest upon obligations of the United States or of corporations organized under Act of Congress which is allowed to an individual as a credit for purposes of normal tax by section 25 (a) (1) or (2).

(b) *Dividends Received.*—85 per centum of the amount received as dividends from a domestic corporation which is subject to taxation under this title. The credit allowed by this subsection shall not be allowed in respect of dividends received from a corporation organized under the China Trade Act, 1922, or from a corporation which under section 251 is taxable only on its gross income from sources within the United States by reason of its receiving a large percentage of its gross income from sources within a possession of the United States.

(c) *Contracts Restricting Payment of Dividends.*—

(1) *Prohibition on Payment of Dividends.*—An amount equal to the excess of the adjusted net income over the aggregate of the amounts which can be distributed within the taxable year as dividends without violating a provision of a written contract executed by the corporation prior to May 1, 1936, which provision expressly deals with the payment of dividends. If a corporation would be entitled to a credit under this paragraph because of a contract provision and also to one or more credits because of other contract provisions, only the largest of such credits shall be allowed, and for such purpose if two or more credits are equal in amount only one shall be taken into account.

(2) *Disposition of Profits of Taxable Year.*—An amount equal to the portion of the earnings and profits of the taxable year which is required (by a provision of a written contract executed by the corporation prior to May 1, 1936, which provision expressly deals with the disposition of earnings and profits of the taxable year) to be paid within the taxable year in discharge of a debt, or to be irrevocably set aside within the taxable year for the discharge of a debt; to the extent that such amount has been so paid or set aside. For the purposes of this paragraph, a requirement to pay or set aside an amount equal to a percentage of earnings and profits shall be considered a requirement to pay or set aside such percentage of earnings and profits. As used in this paragraph, the word "debt" does not include a debt incurred after April 30, 1936.

(3) *Double Credit Not Allowed.*—If both paragraph (1) and paragraph (2) apply, the one of such paragraphs which allows the greater credit shall be applied; and, if the credit allowable under each paragraph is the same, only one of such paragraphs shall be applied.

(d) *Bank Affiliates.*—In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the amount of the earnings or profits which the Board of Governors of the Federal Reserve Sys-

tem certifies to the Commissioner has been devoted by such affiliate during the taxable year to the acquisition of readily marketable assets other than bank stock in compliance with section 5144 of the Revised Statutes. The aggregate of the credits allowable under this subsection for all taxable years shall not exceed the amount required to be devoted under such section 5144 to such purposes.

(e) *National Mortgage Associations.*—In the case of a national mortgage association created under Title III of the National Housing Act, the amount of the earnings or profits which the Federal Housing Administrator certifies to the Commissioner has been devoted by such association during the taxable year to the acquisition of such reserves as the Administrator may require under the provisions of section 303 of that Act.

And the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert and Title IA; and the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(18) *Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro-rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.*

And the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows:

On page 79 of the House bill strike out lines 7 to 11, both inclusive, and insert the following:

(1) *In the case of corporations not subject to the surtax on undistributed profits imposed by section 14, a surtax equal to the sum of the following:*

25 per centum of the amount of the retained net income not in excess of \$100,000, plus

35 per centum of the amount of the retained net income in excess of \$100,000.

(2) In the case of corporations subject to the surtax on undistributed profits imposed by section 14, a surtax equal to the sum of the following:

- 15 per centum of the amount of the retained net income not in excess of \$100,000, plus
- 25 per centum of the amount of the retained net income in excess of \$100,000.

And the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(c) Definitions.—As used in this title—

(1) Special Adjusted Net Income.—The term "special adjusted net income" means the net income minus the sum of—

(A) Taxes.—Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year, to the extent not allowed as a deduction by section 23, but not including the tax imposed by this section or a corresponding section of a prior income-tax law.

(B) Disallowed Charitable, etc., Contributions.—Contributions or gifts, not otherwise allowed as a deduction, to or for the use of donees described in section 23(o), for the purposes therein specified.

(C) Disallowed Losses.—Losses from sales or exchanges of capital assets which are disallowed as a deduction by section 117(d).

(D) Bank Affiliates.—In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the amount allowed as a credit under section 26(d).

(E) National Mortgage Associations.—In the case of a national mortgage association created under Title III of the National Housing Act, the amount allowed as a credit under section 26 (e).

(2) Retained Net Income.—The term "retained net income" means the special adjusted net income minus the sum of the dividends paid credit provided in section 27 and the credit provided in section 26 (c), relating to contracts restricting dividends. For the purposes of this subsection, such credits shall be computed by substituting in section 26 (c) and in section 27 for the words "adjusted net income" wherever appearing in such sections the words "special adjusted net income".

And the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(e) Tax on Personal Holding Companies.—For surtax on personal holding companies, see section 351.

And the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 104. BANKS AND TRUST COMPANIES.

(a) Definition.—As used in this section the term "bank" means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any State, or of any Territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under section 11 (k) of the Federal Reserve Act, as amended, and which is subject by law to supervision and examination by State or Federal authority having supervision over banking institutions.

(b) Rate of Tax.—Banks shall be taxable in the same manner as other corporations, except that they shall not be subject to the surtax imposed by section 14, and except that the normal tax imposed by section 13 shall be at the rate of 15 per centum instead of at the rates provided in such section.

And the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91 and agree to the same with an amendment as follows:

On page 17, line 7, of the Senate engrossed amendments strike out "104" and insert 105; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(6) Property Received by Corporation on Complete Liquidation of Another.—No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if—

(A) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 per centum of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) no distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1935; and either

(C) the distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the taxable year; in such case the adoption by the stockholders of the resolution under which is authorized the distribution of all the assets of such corporation in complete cancellation or redemption of all its stock, shall be considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(D) such distribution is one of a series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within three years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

If such transfer of all the property does not occur within the taxable year the Commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such three-year period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, the assessment and collection of all income, war-profits, and excess-profits taxes then imposed by law for such taxable year or subsequent taxable years, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancellation or redemption under the plan, as a result of exchanges described in paragraph (3) of this subsection, of the shares not owned by the taxpayer. And the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows:

On page 23 of the Senate engrossed amendments, strike out line 6 and insert *resident alien, foreign partnership, or foreign corporation, not engaged in trade or business within the United States;* and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows:

On page 23 of the Senate engrossed amendments, line 16, strike out "14 (c) (2)" and insert 14 (d) (2); and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert (except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate, not less than 5 per centum, as may be provided by treaty with such country); and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert a comma and the following: *except that such rate shall be reduced, in the case of a nonresident alien individual a resident of a contiguous country, to such rate (not less than 5 per centum) as may be provided by treaty with such country: Provided, That no such deduction or withholding shall be required in the case of dividends paid by a foreign corporation unless (1) such corporation is engaged in trade or business within the United States or has an office or place of business therein, and (2) more than 85 per centum of the gross income of such corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of section 119: Provided further; and the Senate agree to the same.*

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *except that in the case of dividends the rate shall be 10 per centum, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 per centum with respect to dividends shall be reduced to such rate (not less than 5 per centum) as may be provided by treaty with such country;*

And the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 169. COMMON TRUST FUNDS.

(a) *Definitions.*—The term "common trust fund" means a fund maintained by a bank (as defined in section 104)—

(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian; and

(2) in conformity with the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System pertaining to the collective investment of trust funds by national banks.

(b) *Taxation of Common Trust Funds.*—A common trust fund shall not be subject to taxation under this title, Title LA, or section 106 or 108 of the Revenue Act of 1935, and for the purposes of such titles and sections shall not be considered a corporation.

(c) *Income of Participants in Fund.*—Each participant in the common trust fund shall include in computing its net income its proportionate share, whether or not distributed and whether or not distributable, of the net income of the common trust fund. The net income of the common trust fund shall be computed in the same manner and on the same basis as in the case of an individual. The proportionate share of each participant in the amount of interest specified in section 25 (a) received by the common trust fund shall for the purposes of this Supplement be considered as having been received by such participant as such interest.

(d) *Admission and Withdrawal.*—No gain or loss shall be realized by the common trust fund by the admission or withdrawal of a participant. The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant.

(e) *Returns by Bank.*—Every bank (as defined in section 104) maintaining a common trust fund shall make a return under oath for each taxable year, stating specifically, with respect to such fund, the items of gross income and the deductions allowed by this title, and shall include in the return the names and addresses of the participants who would be entitled to share in the net income if distributed and the amount of the proportionate share of each participant. The return shall be sworn to as in the case of a return filed by the bank under section 62.

(f) *Different Taxable Years of Common Trust Fund and Participant.*—If the taxable year of the common trust fund is different from that of a participant, the proportionate share of the net income of the common trust fund to be included in computing the net income of the participant for its taxable year shall be based upon the net income of the common trust fund for any taxable year of the common trust fund (whether beginning on, before, or after January 1, 1936) ending within the taxable year of the participant.

And the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(b) *Imposition of Tax.*—

(1) *In General.*—In lieu of the tax imposed by sections 13 and 14, there shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every life insurance company a tax of 15 per centum of the amount thereof.

(2) *Normal-Tax Net Income of Foreign Life Insurance Companies.*—In the case of a foreign life insurance company, the normal-tax net income shall be an amount which bears the same ratio to the normal-tax net income, computed without regard to this paragraph, as the reserve funds required by law and held by it at the end of the taxable year upon business transacted within the United States bear to the reserve funds held by it at the end of the taxable year upon all business transacted.

(3) *No United States Insurance Business.*—Foreign life insurance companies not carrying on an insurance business within the United States and holding no reserve funds upon business transacted within the United States, shall not be taxable under this section but shall be taxable as other foreign corporations.

And the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows:

On page 28 of the Senate engrossed amendments, lines 15 and 16, strike out "a tax at the rates specified in section 13" and insert a tax of 15 per centum of the amount thereof; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(2) *Normal-Tax Net Income of Foreign Companies.*—In the case of a foreign insurance company (other than a life or mutual insurance company), the normal-tax net income shall be the net income from sources within the United States minus the sum of—

(A) Interest on obligations of the United States and its instrumentalities.—The credit provided in section 25 (a).

(B) Dividends received.—The credit provided in section 26 (b).

(3) *No United States Insurance Business.*—Foreign insurance companies not carrying on an insurance business within the United States shall not be taxable under this section but shall be taxable as other foreign corporations.

And the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(a) *Application of Title.*—*Mutual insurance companies, other than life insurance companies, shall be taxable in the same manner as other corporations, except as hereinafter provided in this section, and except that they shall not be subject to the surtax imposed by section 14, and except that the normal tax imposed by section 13 shall be at the rate of 15 per centum instead of at the rates provided in such section, and such normal tax shall be applicable to foreign corporations as well as domestic corporations; but foreign insurance companies not carrying on an insurance business within the United States shall be taxable as other foreign corporations.*

And the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: , *except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate (not less than 5 per centum) as may be provided by treaty with such country;*

And the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert a comma and the following: *except that in the case of dividends the rate shall be 10 per centum, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 per centum with respect to dividends shall be reduced to such rate (not less than 5 per centum) as may be provided by treaty with such country; and the Senate agree to the same.*

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(c) *Tax in Case of Corporations.*—*In the case of a domestic corporation entitled to the benefits of this section the normal tax imposed by section 13 shall be at the rate of 15 per centum instead of at the rates provided in such section, and such a corporation shall not be subject to the surtax imposed by section 14.*

And the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 261. *TAXATION IN GENERAL.*

In the case of a corporation organized under the China Trade Act, 1922, the normal tax imposed by section 13 shall be at the rate of 15 per centum instead of at the rates provided in such section, and such a corporation shall not be subject to the surtax imposed by section 14.

And the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE IA—ADDITIONAL INCOME TAXES

SEC. 351. *SURTAX ON PERSONAL HOLDING COMPANIES.*

(a) *Imposition of Tax.*—*There shall be levied, collected, and paid, for each taxable year (in addition to the taxes imposed by Title I), upon the undistributed adjusted net income of every personal holding company a surtax equal to the sum of the following:*

- (1) 8 per centum of the amount thereof not in excess of \$2,000; plus
- (2) 18 per centum of the amount thereof in excess of \$2,000 and not in excess of \$100,000; plus
- (3) 28 per centum of the amount thereof in excess of \$100,000 and not in excess of \$500,000; plus
- (4) 38 per centum of the amount thereof in excess of \$500,000 and not in excess of \$1,000,000; plus
- (5) 48 per centum of the amount thereof in excess of \$1,000,000.

(b) *Definitions.*—*As used in this title—*

(1) The term "personal holding company" means any corporation (other than a corporation exempt from taxation under section 101, and other than a bank, as defined in section 104, and other than a life-insurance company or surety company) if—(A) at least 80 per centum of its gross income for the taxable year is derived from royalties, dividends, interest, annuities, and (except in the case of regular dealers in stock or securities) gains from the sale of stock or securities, and (B) at any time during the last half of the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals. For the purpose of determining the ownership of stock in a personal holding company—(C) stock owned, directly or indirectly, by a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries; (D) an individual shall be considered as owning, to the exclusion of any other individual, the stock owned, directly or indirectly, by his family, and this rule shall be applied in such manner

as to produce the smallest possible number of individuals owning, directly or indirectly, more than 50 per centum in value of the outstanding stock; and (E) the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(2) The term "undistributed adjusted net income" means the adjusted net income minus the sum of:

(A) 20 per centum of the excess of the adjusted net income over the amount of dividends received from personal holding companies which are allowable as a credit for the purposes of the tax imposed by section 13 or 204;

(B) Amounts used or set aside to retire indebtedness incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness; and

(C) The amount of the dividends paid credit provided in section 27, computed without the benefit of subsection (b) thereof (relating to the dividend carry-over).

(3) The term "adjusted net income" means the net income minus the sum of:

(A) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction by section 23, but not including the tax imposed by this section or a corresponding section of a prior income-tax law;

(B) Contributions or gifts, not otherwise allowed as a deduction, to or for the use of donees described in section 25 (c) for the purposes therein specified, including, in the case of a corporation organized prior to January 1, 1936, to take over the assets and liabilities of the estate of a decedent, amounts paid in liquidation of any liability of the corporation based on the liability of the decedent to make any such contribution or gift, to the extent such liability of the decedent existed prior to January 1, 1934; and

(C) Losses from sales or exchanges of capital assets which are disallowed as a deduction by section 117 (d).

(4) The terms used in this section shall have the same meaning as when used in Title I.

(c) Administrative Provisions.—All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, except that the provisions of section 131 of that title shall not be applicable.

(d) Payment of Surtax on Pro Rata Shares.—The tax imposed by this section shall not apply if (1) all the shareholders of the corporation include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the adjusted net income of the corporation for such year, and (2) 90 per centum or more of such adjusted net income is so included in the gross income of shareholders other than corporations. Any amount so included in the gross income of a shareholder shall be treated as a dividend received. Any subsequent distribution made by the corporation out of earnings or profits for such taxable year shall, if distributed to any shareholder who has so included in his gross income his pro rata share, be exempt from tax in the amount of the share so included.

(e) Improper Accumulation of Surplus.—For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see section 108. And the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 401. CAPITAL STOCK TAX.

(a) Section 105 of the Revenue Act of 1935 is amended by striking out "\$1.40" wherever appearing therein and inserting in lieu thereof "\$1".

(b) Subsection (c) of such section is amended by striking out "1934" and inserting in lieu thereof "1936", and by striking out "as amended" wherever appearing in such subsection.

And the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment as follows:

On page 38 of the Senate engrossed amendments, line 12, strike out "(b) Section 105 (f) (4) of such Act" and insert (c) Subsection (f) (4) of such section; and the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 402. EXCESS-PROFITS TAX.

(a) Section 106 (b) of the Revenue Act of 1935 is amended by striking out "except that there shall be deducted the amount of income tax imposed for such year by section 13 of the Revenue Act of 1934, as amended" and inserting in lieu thereof "computed without the deduction of the tax imposed by this section, but with a credit against net income equal to the credit for dividends received provided in section 26 (b) of the Revenue Act of 1936".

(b) The amendment made by subsection (a) shall not apply to an income-tax taxable year beginning before January 1, 1936.

And the Senate agree to the same.

Amendment numbered 170:

That the House recede from its disagreement to the amendment of the Senate numbered 170, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(b) The net income (specified in subsection (a) (1)) from the sale of articles with respect to which the Federal excise tax was not paid, and the net income specified in subsection (a) (2) or (3), shall not include the net income from the sale of any article, from reimbursement with respect to any article, or from refund or credit of Federal excise tax with respect

to any article (1) if such article (or the articles processed therefrom) were not sold by the taxpayer on or before the date of the termination of the Federal excise tax; (2) if the taxpayer made a tax adjustment with respect to such article (or the articles processed therefrom) with his vendee; or (3) if under the terms of any statute the taxpayer would have been entitled to a refund from the United States of the Federal excise tax with respect to the article otherwise than as an erroneous or illegal collection (assuming, in case the tax was not paid, that it had been paid). And the Senate agree to the same.

Amendment numbered 179:

That the House recede from its disagreement to the amendment of the Senate numbered 179, and agree to the same with an amendment as follows:

On page 43 of the Senate engrossed amendments, lines 19 to 21, inclusive, strike out "any payments or credits with respect to the articles made to purchasers as specified in subsection (f) (3)" and insert the portion of the amount of the Federal excise tax (or of the reimbursement specified in subsection (a) (2)) with respect to the articles which is paid or credited by the taxpayer to any purchasers as specified in subsection (f) (3); and the Senate agree to the same.

Amendment numbered 185:

That the House recede from its disagreement to the amendment of the Senate numbered 185, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert articles; and the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert June 1, 1936, or thereafter in the bona fide settlement of a written agreement; and the Senate agree to the same.

Amendment numbered 203:

That the House recede from its disagreement to the amendment of the Senate numbered 203, and agree to the same with an amendment as follows:

On page 46 of the Senate engrossed amendments, lines 23 and 24, strike out "the thirtieth day after the date of the enactment of this Act" and insert June 1, 1936; and the Senate agree to the same.

Amendment numbered 232:

That the House recede from its disagreement to the amendment of the Senate numbered 232, and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment.

And the Senate agree to the same.

Amendment numbered 245:

That the House recede from its disagreement to the amendment of the Senate numbered 245, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 701. TAX ON CERTAIN OILS.

The first sentence of section 601 (c) (8) of the Revenue Act of 1932, as amended, is amended to read as follows:

"(8) Whale oil (except sperm oil), fish oil (except cod oil, cod-liver oil, and halibut-liver oil), marine-animal oil, tallow, inedible animal oils, inedible animal fats, inedible animal greases, fatty acids derived from any of the foregoing, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphated, sulphated, hydrogenated, or otherwise processed, 3 cents per pound; sesame oil provided for in paragraph 1732 of the Tariff Act of 1930, sunflower oil, rapeseed oil, kapok oil, hempseed oil, perilla oil, fatty acids derived from any of the foregoing or from linseed oil, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphated, sulphated, hydrogenated, or otherwise processed, 4½ cents per pound; any article, merchandise, or combination (except oils specified in section 602½ of the Revenue Act of 1934, as amended, 10 per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the products specified above in this paragraph or in section 602½ of the Revenue Act of 1934, as amended, a tax at the rate or rates per pound equal to that proportion of the rate or rates prescribed in this paragraph or such section 602½ in respect of such product or products which the quantity by weight of the imported article, merchandise, or combination, consisting of or derived from such product or products, bears to the total weight of the imported article, merchandise, or combination; hempseed, perilla seed, rapeseed, sesame seed, and kapok seed, 2 cents per pound."

And the Senate agree to the same.

Amendment numbered 246:

That the House recede from its disagreement to the amendment of the Senate numbered 246, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 702. PROCESSING TAX ON CERTAIN OILS.

(a) The first sentence of section 602½ of the Revenue Act of 1934 is amended to read as follows:

"(a) There is hereby imposed upon the first domestic processing of coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts of any of the foregoing (whether or not such oils, fatty acids, or salts have been refined, sulphated, sulphated, hydrogenated, or otherwise processed), or any combination or mixture containing a substantial quantity of any one or more of such oils, fatty acids, or salts, a tax of 3 cents per pound to be paid by the processor, but the tax under this section shall not apply (1) with respect to any fatty acid or salt

resulting from a previous first domestic processing taxed under this section or upon which an import tax has been paid under section 601 (c) (8) of the Revenue Act of 1932, as amended, or (2) with respect to any combination or mixture by reason of its containing an oil, fatty acid, or salt with respect to which there has been a previous first domestic processing or upon which an import tax has been paid under such section 601 (c) (8)."

(b) Notwithstanding the provisions of subsection (a) of this section, the first domestic processing of sunflower oil or sesame oil (or any combination or mixture containing a substantial quantity of sunflower oil or sesame oil), if such oil or such combination or mixture or such oil contained therein was imported prior to the effective date of this title, shall be taxed in accordance with the provisions of section 602½ of the Revenue Act of 1934 in force on the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 252:

That the House recede from its disagreement to the amendment of the Senate numbered 252, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 801. EXEMPTION FROM ADMISSIONS TAX OF CERTAIN CONCERTS.

Section 500 (b) (2) of the Revenue Act of 1926 is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and any admissions to concerts conducted by a civic or community membership association if no part of the net earnings thereof inures to the benefit of any stockholders or members of such association."

And the Senate agree to the same.

Amendment numbered 253:

That the House recede from its disagreement to the amendment of the Senate numbered 253, and agree to the same with an amendment as follows:

On page 61 of the Senate engrossed amendments, line 16, strike out "804" and insert 802; line 19, insert a period after "3207"; and on page 62, line 9, strike out "subject" and insert subjected; and the Senate agree to the same.

Amendment numbered 254:

That the House recede from its disagreement to the amendment of the Senate numbered 254, and agree to the same with an amendment as follows:

On page 63 of the Senate engrossed amendments, line 11, strike out "805" and insert 803; and the Senate agree to the same.

Amendment numbered 255:

That the House recede from its disagreement to the amendment of the Senate numbered 255, and agree to the same with an amendment as follows:

On page 63, line 19, of the Senate engrossed amendments, strike out "806" and insert 804; and the Senate agree to the same.

Amendment numbered 256:

That the House recede from its disagreement to the amendment of the Senate numbered 256, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 805. ESTATE TAXES—REVOCABLE TRANSFERS.

(a) Section 302 (d) (1) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(d) (1) To the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona-fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power (in whatever capacity exercisable) by the decedent alone or by the decedent in conjunction with any other person (without regard to when or from what source the decedent acquired such power), to alter, amend, revoke, or terminate, or where any such power is relinquished in contemplation of decedent's death."

(b) Except in the case of transfers made after the date of the enactment of this Act, no interest of the decedent of which he has made a transfer shall be included in the gross estate under such section 302 (d) (1) unless it was includible under such section before its amendment by this section.

And the Senate agree to the same.

Amendment numbered 257:

That the House recede from its disagreement to the amendment of the Senate numbered 257, and agree to the same with an amendment as follows:

On page 65, line 2, of the Senate engrossed amendments, strike out "808" and insert 806; and the Senate agree to the same.

Amendment numbered 258:

That the House recede from its disagreement to the amendment of the Senate numbered 258, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 807. RECONSIDERATION OF REFUND CLAIMS.

(a) Section 3226 of the Revised Statutes, as amended, is amended by adding at the end thereof the following new sentence: "Any consideration, reconsideration, or action by the Commissioner with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun."

(b) The amendment made by subsection (a) shall not operate (1) to bar a suit or proceeding in respect of a claim reopened prior to the date of the enactment of this Act, if such suit or proceeding was not barred under the law in effect prior to the date of the enactment of this Act, or (2) to prevent the suspension of the statute of limitations for filing suit under section 608 (b) (2), as amended, of the Revenue Act of 1923.

And the Senate agree to the same.

Amendment numbered 259:

That the House recede from its disagreement to the amendment of the Senate numbered 259, and agree to the same with an amendment as follows:

On page 67 of the Senate engrossed amendments, line 8, strike out "§10" and insert §08; and the Senate agree to the same.

Amendment numbered 262:

That the House recede from its disagreement to the amendment of the Senate numbered 262, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 809. TERMINATION OF JEWELRY TAX.

The tax imposed by section 605 of the Revenue Act of 1932 shall not apply to any article sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 263:

That the House recede from its disagreement to the amendment of the Senate numbered 263, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 810. TAX ON FURS.

(a) Effective after the date of the enactment of this Act, section 604 of the Revenue Act of 1932 is amended by striking out "10 per centum" and inserting in lieu thereof "3 per centum".

(b) The exemption of articles sold for less than \$75, provided by section 608 of the Revenue Act of 1934, shall not apply to articles sold after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 265:

That the House recede from its disagreement to the amendment of the Senate numbered 265, and agree to the same with an amendment as follows:

On page 70, line 5, of the Senate engrossed amendments, strike out "816" and insert 811; and the Senate agree to the same.

Amendment numbered 268:

That the House recede from its disagreement to the amendment of the Senate numbered 268, and agree to the same with an amendment as follows:

On page 71 of the Senate engrossed amendments, in line 24, strike out "section 6" and insert section 906; and the Senate agree to the same.

Amendment numbered 272:

That the House recede from its disagreement to the amendment of the Senate numbered 272, and agree to the same with an amendment as follows:

On page 76 of the Senate engrossed amendments, in line 17, strike out "division" and insert divisions; and on page 78, line 4, strike out

"cross examine" and insert cross-examine; and the Senate agree to the same.

Amendment numbered 273:

That the House recede from its disagreement to the amendment of the Senate numbered 273, and agree to the same with an amendment as follows:

On page 87 of the Senate engrossed amendments, line 9, strike out "Commission" and insert Commissioner; and the Senate agree to the same.

Amendment numbered 274:

That the House recede from its disagreement to the amendment of the Senate numbered 274, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 908. LIMITATIONS ON ALLOWANCE OF CLAIMS AND INTEREST.

(a) No claim shall be allowed under this title in an amount less than \$10.

(b) No interest shall be allowed by the Commissioner or by any court with respect to any amount paid or collected as tax under the Agricultural Adjustment Act, except with respect to amounts, refund of which is made or allowed under this title.

And the Senate agree to the same.

Amendment numbered 286:

That the House recede from its disagreement to the amendment of the Senate numbered 286, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment and on page 60 of the House bill, after line 26, insert the following:

(c) **Mutual Investment Companies.**—

(1) **General Definition.**—The term "mutual investment company" means any corporation (whether chartered or created as an investment trust, or otherwise), other than a personal holding company as defined in section 561, if—

(A) It is organized for the purpose of, and substantially all its business consists of, holding, investing, or reinvesting in stock or securities; and

(B) At least 95 per centum of its gross income is derived from dividends, interest, and gains from sales or other disposition of stock or securities; and

(C) Less than 30 per centum of its gross income is derived from the sale or other disposition of stock or securities held for less than six months; and

(D) An amount not less than 90 per centum of its net income is distributed to its shareholders as taxable dividends during the taxable year; and

(E) Its shareholders are, upon reasonable notice, entitled to redemption of their stock for their proportionate interests in the corporation's properties, or the cash equivalent thereof less a discount not in excess of 3 per centum thereof.

(2) *Limitations.*—Despite the provisions of paragraph (1) a corporation shall not be considered as a mutual investment company if, subsequent to a date thirty days after the date of the enactment of this Act, at any time during the taxable year—

(A) More than 5 per centum of the gross assets of the corporation, taken at cost, was invested in stock or securities, or both, of any one corporation, government, or political subdivision thereof, but this limitation shall not apply to investments in obligations of the United States or in obligations of any corporation organized under general Act of Congress if such corporation is an instrumentality of the United States; or

(B) It owned more than 10 per centum of the outstanding stock or securities, or both, of any one corporation; or

(C) It had any outstanding bonds or indebtedness in excess of 10 per centum of its gross assets taken at cost; or

(D) It fails to comply with any rule or regulation prescribed by the Commissioner, with the approval of the Secretary, for the purpose of ascertaining the actual ownership of its outstanding stock.

And the Senate agree to the same.

Amend the Table of Contents to read as follows:

TABLE OF CONTENTS

TITLE I—INCOME TAX

SUBTITLE A—INTRODUCTORY PROVISIONS

- Sec. 1. Application of title.
- Sec. 2. Cross references.
- Sec. 3. Classification of provisions.
- Sec. 4. Special classes of taxpayers.

SUBTITLE B—GENERAL PROVISIONS

PART I—RATES OF TAX

- Sec. 11. Normal tax on individuals.
- Sec. 12. Surtax on individuals.
- Sec. 13. Normal tax on corporations.
- Sec. 14. Surtax on undistributed profits.

PART II—COMPUTATION OF NET INCOME

- Sec. 21. Net income.
- Sec. 22. Gross income.
- Sec. 23. Deductions from gross income.
- Sec. 24. Items not deductible.
- Sec. 25. Credits of individual against net income.
- Sec. 26. Credits of corporations.
- Sec. 27. Corporation credit for dividends paid.

PART III—CREDITS AGAINST TAX

- Sec. 31. Taxes of foreign countries and possessions of United States.
- Sec. 32. Taxes withheld at source.
- Sec. 33. Credit for overpayments.

PART IV—ACCOUNTING PERIODS AND METHODS OF ACCOUNTING

- Sec. 41. General rule.
- Sec. 42. Period in which items of gross income included.
- Sec. 43. Period for which deductions and credits taken.
- Sec. 44. Installment basis.
- Sec. 45. Allocation of income and deductions.
- Sec. 46. Change of accounting period.
- Sec. 47. Returns for a period of less than twelve months.
- Sec. 48. Definitions.

PART V—RETURN AND PAYMENT OF TAX

- Sec. 51. Individual returns.
- Sec. 52. Corporation returns.
- Sec. 53. Time and place for filing returns.
- Sec. 54. Records and special returns.
- Sec. 55. Publicity of returns.
- Sec. 56. Payment of tax.
- Sec. 57. Examination of return and determination of tax.
- Sec. 58. Additions to tax and penalties.
- Sec. 59. Administrative proceedings.

PART VI—MISCELLANEOUS PROVISIONS

- Sec. 61. Laws made applicable.
- Sec. 62. Rules and regulations.
- Sec. 63. Taxes in lieu of taxes under 1934 Act.
- Sec. 64. Short title.

SUBTITLE C—SUPPLEMENTAL PROVISIONS

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- Sec. 101. Exemptions from tax on corporations.
- Sec. 102. Surtax on corporations improperly accumulating surplus.
- Sec. 103. Rates of tax on citizens and corporations of certain foreign countries.
- Sec. 104. Banks and trust companies.
- Sec. 105. Sale of oil or gas properties.

SUPPLEMENT B—COMPUTATION OF NET INCOME

- Sec. 111. Determination of amount of, and recognition of, gain or loss.
- Sec. 112. Recognition of gain or loss.
- Sec. 113. Adjusted basis for determining gain or loss.
- Sec. 114. Basis for depreciation and depletion.
- Sec. 115. Distributions by corporations.
- Sec. 116. Exclusions from gross income.
- Sec. 117. Capital gains and losses.

- Sec. 118. Loss from wash sales of stock or securities.
 Sec. 119. Income from sources within United States.
 Sec. 120. Unlimited deduction for charitable and other contributions.
 Sec. 121. Deduction of dividends paid on certain preferred stock of certain corporations.

SUPPLEMENT C—CREDITS AGAINST TAX

- Sec. 131. Taxes of foreign countries and possessions of United States.

SUPPLEMENT D—RETURNS AND PAYMENT OF TAX

- Sec. 141. Consolidated returns of railroad corporations.
 Sec. 142. Fiduciary returns.
 Sec. 143. Withholding of tax at source.
 Sec. 144. Payment of corporation income tax at source.
 Sec. 145. Penalties.
 Sec. 146. Closing by Commissioner of taxable year.
 Sec. 147. Information at source.
 Sec. 148. Information by corporations.
 Sec. 149. Returns of brokers.
 Sec. 150. Collection of foreign items.

SUPPLEMENT E—ESTATES AND TRUSTS

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 Sec. 163. Credits against net income.
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 Sec. 165. Employees' trusts.
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 Sec. 203. Net income of life insurance companies.
 Sec. 204. Insurance companies other than life or mutual.
 Sec. 205. Taxes of foreign countries and possessions of United States.
 Sec. 206. Computation of gross income.
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- Sec. 211. Tax on nonresident alien individuals.
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- Sec. 251. Income from sources within possessions of United States.
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- Sec. 291. Failure to file return.
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- Sec. 311. Transferred assets.
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- Sec. 321. Overpayment of installment.
 Sec. 322. Refunds and credits.

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- Sec. 351. Surtax on personal holding companies.

TITLE II—CAPITAL STOCK AND EXCESS-PROFITS TAX

- Sec. 401. Capital stock tax.
 Sec. 402. Excess-profits tax.

TITLE III—TAX ON UNJUST ENRICHMENT

- Sec. 501. Tax on net income from certain sources.
 Sec. 502. Credit for other taxes on income.
 Sec. 503. Administrative provisions.
 Sec. 504. Taxable years to which title is applicable.
 Sec. 505. Application of title to possessions.
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TITLE IV—EXPORT, CHARITABLE, ETC., REFUNDS AND FLOOR STOCKS ADJUSTMENT UNDER AGRICULTURAL ADJUSTMENT ACT

- Sec. 601. Refunds under Agricultural Adjustment Act on exports, deliveries for charitable distribution or use, etc.
 Sec. 602. Floor stocks as of January 6, 1936.
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 Sec. 702. Processing tax on certain oils.
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 Sec. 704. Effective date.

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 Sec. 802. Suits to enforce liens for taxes.
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- Sec. 901. Repeals.
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 Sec. 907. Evidence and presumptions.
 Sec. 908. Interest on claims.
 Sec. 909. Limitations on review.
 Sec. 910. Liability of collectors.
 Sec. 911. Inapplicability to certain refunds.
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- Sec. 1001. Definitions.
 Sec. 1002. Separability clause.
 Sec. 1003. Effective date of Act.

Amendment numbered 281:

The committee of conference have come to no agreement on amendment numbered 281.

R. L. DOUGHTON,
 SAM B. HILL,
 THOS. H. CULLEN,
 FRED M. VINSON,
 JERE COOPER,
Managers on the part of the House.
 WILLIAM H. KING
 WALTER F. GEORGE,
 DAVID I. WALSH,
 ALBEN W. BARKLEY,
 TOM CONNALLY,
 ROBERT M. LA FOLLETTE, JR.,
Managers on the part of the Senate.

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**Examples of Effects of Conference Committee Bill
on Taxes of Small Corporations**

I

A corporation with statutory net income of \$5,000 pays a corporation income tax under present law of 12½ percent on the first \$2,000 and 13 percent on the next \$3,000, or a total of \$640.

Under the Conference Bill, such corporation would pay a normal tax of only \$490. If, however, it retained all of its earnings after normal tax, it would pay an additional 7 percent on such retained earnings, which would amount to \$315.70, making total taxes of \$805.70, as compared with taxes under the existing law of \$640.

However, for the average case, it would be unreasonable to assume full retention of earnings. If this corporation retained 50 percent of its earnings after normal tax, its total normal tax and surtax under the Conference Bill would amount to \$647.85, as compared with \$640 under existing law.

If this corporation made full distribution of its earnings after normal tax, on the other hand, its total tax under the Conference Bill would be \$490 as compared with the present tax of \$640.

If this corporation withheld from its stockholders 47.5 percent or less of its income after normal tax, its total tax would be less than under present law.

II

A corporation with statutory net income of \$10,000 under present law pays corporation income taxes amounting to \$1,290. Under the Conference Bill, this corporation, if it distributed all of its earnings after normal tax, would pay \$1,040. If this corporation retained 50 percent of its earnings after normal tax, it would pay a slightly higher total tax than it pays under existing law — \$1,353.60 as against \$1,290.

If it paid no dividends whatever, its total taxes would amount to \$2,082.

If this corporation withheld from its stockholders 39.8 percent or less of its income after normal tax, its total tax would be less than under present law.

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III

A corporation with statutory net income of \$20,000 pays \$2,640 in corporation income taxes under present law. Such corporation, if it paid out all of its earnings after normal tax, would pay \$2,240 in corporation income taxes under the Conference Bill. If this corporation retained 50 percent of its earnings after normal tax, it would pay a total tax of \$3,160.80.

If this corporation withheld from its stockholders 30.5 percent or less of its income after normal tax, its total tax would be less than under present law.

June 19, 1936.



OFFICE OF
THE TREASURY ATTACHE

UNITED STATES TREASURY DEPARTMENT

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June 18, 1936

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The Honorable
The Secretary of The Treasury
Washington, D. C.

(Through the Commissioner of Customs)

Sir:

In pursuance of cable instructions received through the office of the Treasury Attache in Paris, this office has collected a number of editorial comments from leading German newspapers regarding the recent decision to apply countervailing duties on certain classes of German merchandise. Translations of these newspaper comments are enclosed.

The comment from the Textil-Zeitung of June 7th represents what appears to be the stereotyped press release from the D. N. B., as this identical article appeared in nearly all German newspapers in the same form as carried in the Textil-Zeitung.

The editorial comments are more or less uniform in their expressions of astonishment and pained surprise. The writers point out that the present situation is one resulting from the appreciation of foreign currencies in their relation to the dollar, as a result of which Germany was obliged to resort to subsidization in order to compete in the world market. In nearly all cases, the editorials emphasize the necessity for an exchange of goods between Germany and the United States on a more favorable basis, the hope for which lies in negotiating a new trade treaty.

Of the enclosed comments, that of the Koelnische Zeitung appears to be the most moderate and reasonable, while those of the Angriff and the Thueringer Allgemeine Zeitung are rather caustic.

Respectfully,

Erwin G. May

ERWIN G. MAY
Treasury Attache

"Textil-Zeitung"

Berlin, June 7, 1936

AMERICAN COUNTERVAILING DUTIES ON GERMAN MERCHANDISE

The decision of the United States Treasury Department comes as a great surprise and as yet it cannot be ascertained what induced the American Government to issue this decision. Until now the United States government authorities themselves have held that no grounds existed for the application of the provisions of Section 303 of the Tariff Act to importations of German merchandise. It was only in March of this year that the German Government, in response to an inquiry from the American Government, submitted detailed information relative to the various devices used to further the exportation of German merchandise, and on this occasion it was again emphasized that no sums derived from the voluntary Self-Help Fund of German Industry are employed for exports to the United States. In the meantime, no change has taken place in the German procedure which might have occasioned the change in the attitude held by the American Government for the past few years.

"Kölnische Zeitung"

June 9, 1936

GERMAN - AMERICAN TRADE DISTURBANCES

Berlin, June 8, 1936

The declaration of the American Treasury Department, to impose additional duties ranging between 22½ and 56% ad valorem upon ten groups of merchandise exported from Germany, is a new, ungratifying step in the development of German-American trade relations.

The decree of the American Treasury Department is the result of investigations which have been taking place for many months with respect to German foreign exchange and export measures. The result of the investigations was such, that the provisions of the repeatedly-mentioned article 303 of the American Tariff Act of 1930 were considered applicable. The copious information furnished by the German Government in March of this year in reply to the questionnaire submitted by the American Government, has apparently been able to change nothing in this development. One may assume that the American Government, for its part, wants no aggravation of the difficulties in the exchange of merchandise with Germany and simply felt obliged to take action consistent with the evidence obtained in the course of the investigations.

Since the expiration of the German-American Trade Treaty on October 14, 1935, the two countries, by tacit agreement, have waived all avoidable difficulties in their commerce. Of course, the most-favored-nation treatment has been discontinued. Germany applies to American merchandise the rates of the general tariff, but waives the application of the super-tariff provided for in the tariff law, which is a decidedly retaliatory measure. From official advice given out in Berlin, it may be concluded that this decision of the Treasury Department came unexpectedly. The exhaustive reply to the questionnaire and the friendly attitude of the German Government toward the influx of American merchandise were considered to be sufficient guarantee against a further aggravation of the situation by America. It would be erroneous to consider the measure emanating from Washington as the inauguration of a series of increasingly unfriendly measures on the part of the two governments. It is possible that Germany may suggest a revision of the Treasury Department's decision. In this event, Germany can count on the cooperation of the American Government inasmuch as the decline of its exports to Germany showed America the trend of the development and the fact that Germany would purchase even less American goods if the payment of such merchandise

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by means of deliveries from Germany were rendered increasingly difficult.

The question must also be viewed from the angle of Germany's external indebtedness. A country which wishes to carry on trade with another country, and, in addition, has running payments to make on its debts, is obliged to attain a surplus in its foreign trade if it is to meet these obligations. In Washington they no doubt realize that the payment of interest and amortization on the Dawes and Young-Plan loans is not facilitated if Germany's exportation to America is rendered more difficult. Several months ago representatives of the German Foreign Office were in America for the purpose of investigating the possibilities for negotiating a trade agreement. Since then the exchange of opinion on this subject is being continued by correspondence. Even though the desire of both countries is for a friendly economic relationship with a new trade agreement as the final goal, a temporary solution would, at the moment, seem to be more urgent and easier. This agreement should restore the most-favored-nation clause and thereby abolish the handicap under which the goods of the one country now suffer in the other. The concessions which America will make to Germany's export and foreign exchange difficulties will depend upon the extent of its recovery from the economic crisis.

"Der Angriff"

June 10, 1936.

"People in Glass Houses . . ."

Surprising Increase in American Customs Duties.

The news of the decision of the United States Treasury Department to assess a high special duty on certain important categories of German merchandise was regarded as untrue when first reported in Germany. This shows best of all the surprise with which the news was received which we now find to have been quite accurate. It is difficult to perceive what advantage will result from this measure.

The decision of the Treasury Department is based on Section 303 of the Tariff Act. This section states in effect, that countervailing duties ranging between 20 and 65% may be levied on the merchandise imported from countries granting direct or indirect subsidies. This law was made at a time when the dollar still had its former high gold value of RM 4.20, when the United States was an expensive country in terms of gold and rightly feared a certain unfair competition on the part of Europe. In the meantime America has devalued the dollar to RM 2.50 and, in the last analysis, its own methods now are those against which formerly it wished to protect itself. On those countries, like Germany, which have not devalued their currencies, this devaluation has the same effect as if America were to reduce the price of its merchandise through an export subsidy. It is, therefore all the more astonishing that the United States applies this special duty to only a group of German exportations and that in doing so it cites the above-mentioned old law.

Of course, it must be assumed that certain branches of industry have urged this step on the basis of the existing law. But this does not make it less inimical to commerce and trade. It is also astonishing that this action was not taken earlier. For years we have made no secret of our export subsidy by means of which we try to meet the ever increasing competition of the countries with devalued currencies, now that considerable portion of our foreign markets have been snatched from us.

Cotton and leather gloves, toys and Christmas tree ornaments, as well as photographic cameras and tableware are especially affected by this additional duty. In 1934 our exports of leather gloves amounted to approximately 1.7 million pairs, of which America took approximately 833,000 pairs. In 1935 America took 733,000 pairs out of a total of 1.6 million pairs. America's share is therefore approximately one half. Exports of cotton gloves dropped from 11,000,000 kg in 1934 to 8,000,000 kg in 1935. This is due to the decline of exports

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to the United States. The latter declined from 4,617,000 kg. valued at 9.4 million reichsmarks to 2,359,000 kg, with a value of 5.3 million reichsmarks. The German glove industry has for some time complained of a boycott on the part of the American wholesale trade, which, it is true, has shown indications of calming down during the past few months. During the past year America purchased toys having a total value of 3.4 million reichsmarks as against 2.9 million reichsmarks in 1934. This amounts to about 10% of our exports. The Christmas tree ornaments exported to the United States amounted to 1.2 million reichsmarks, as against 0.6 million reichsmarks in 1934. Exports of cameras had a total value of 2.4 million reichsmarks, as against 1.2 million reichsmarks in 1934.

Inasmuch as this additional duty makes exportation from Germany more difficult, and unjustly so, retaliatory measures may be expected, unless an understanding is reached. Such an understanding would certainly be desirable from the standpoint of both parties. In the opinion of American interests the new regulations which are to go into effect on July 11, 1936, are a severe blow to German-American trade relations. The New York importers have become nervous, are commencing to cancel their orders and brand the action of their Government as based on an absolute lack of understanding for the German problem of adjusting its prices to the depreciation of the dollar. The New York Association of Importers has petitioned the United States Treasury Department to postpone the effective date of this new regulation. In April 1936 Germany's share in America's total imports, declined ten percent. American imports, on the other hand, increased 20%. The importing firms in the United States consider American exports to Germany to be in constant danger unless a reciprocal trade agreement is soon concluded.

American business circles interested in exportation to Germany are not unmindful of the fact that American exports to Germany can only be increased if German goods are admitted to the United States at least on the same favorable terms as are accorded to the other European countries as Belgium, Sweden and France.

It remains to be seen when the American business interests involved will realize that the prescribed dumping duties will not facilitate the German transfer of interest on the Dawes and Young Plan loans.

Translation.

"Industrie- & Handelsblatt der Thüringer Allgemeinen Zeitung", Erfurt.

June 10, 1936.

The Underlying Reasons for America's Assessment of

Additional Duties

It is a well-worn truism that the international exchange of goods is based upon reciprocity, that is, upon reciprocal concessions in matters of importation and exportation adapted to the national resources and the necessities of life of each country. It is only since the existence of the Treaty of Versailles that the abuse has gained ground to let political factors play a part in international trade. It is true that while these factors are often negligible in actual practice, their rôle in economic agitation is all the more important. First of all must be mentioned concessions in the way of customs duties. The United States Government is especially interested in such concessions, even if they amount to nothing and a theoretical concession actually results in an increase in duties. It is scarcely believable but nevertheless a fact, proven by the negotiations relative to a trade agreement between the United States and a South American country. One fine day the United States threatened this country with customs reprisals in case it did not grant concessions for the importation of American goods. As a matter of fact, no concessions could be granted in many cases for the importations were duty-free. This was true of flour, for example. America, however, adhered to its demands, and insisted upon actual duty concessions. The South American country found the following way out of its difficulty: A duty was imposed on flour, which had heretofore been duty-free. Whereupon America was offered as a "concession" the reduction of this duty upon American importations, and this offer was accepted by the United States. Now the demands of the United States Government had been met, and both parties were satisfied.

We are reminded of this true story when we now read that the United States intend to assess a countervailing duty on certain products from Germany, on the basis of a decision of the Attorney General in charge of Customs in accordance with which certain provisions of Section 303 of the Tariff Act are applicable to certain dutiable importations from Germany. The section in question originated in the years 1921/22 and was to make possible the assessment of countervailing duties upon merchandise from countries whose currencies had depreciated to a greater or less degree in relation to the United States dollar. At that time the dollar was anchored tightly to the gold standard and was regarded as one of the safest and most stable currencies of the world, while Germany was going through a terrible inflation. If America now feels

obliged to apply Section 303 to a part of the German importations then this intention is devoid of any reasonable basis: for at present the monetary situation is exactly reversed. The German Reichsmark is maintained strictly at its old par value while America has devalued its dollar by more than 40%.

Hence, it is we who could be speaking of an artificial price reduction of American export! The natural consequences of this currency situation is that German merchandise is too expensive for the United States, and this, together with America's protective tariff policy, makes it extremely difficult to sell German merchandise. Germany, on the other hand, is forced to export, especially to the United States, if it is to pay its debts to America. As every child knows, these debts can be paid with money, i.e. foreign exchange, which we do not possess, or with merchandise which the creditor country accepts to the extent it desires to withdraw its credits.

But what do the Americans do? Just the opposite! Instead of a greater willingness to accept German merchandise we hear only lamentations about nonpayment of debts together with incessant complaints on the part of various commercial interests about the alleged dumping of German merchandise or the discrimination against American imports into Germany. By "dumping" they mean the German export subsidy, but forget that with this subsidy we are only doing what foreign countries taught us and forced us to do when they devalued their currencies. If certain countries were prepared to permit an increase in German importation in order to enable Germany to make arrangements with respect to the payment of Dawes loan coupons more favorable to the nationals of those countries, then other countries are also privileged to obtain the same advantages for their citizens by granting similar concessions for German importations. An international discrimination is therefore out of the question.

If Americans now seize upon this or that alleged discrimination in order to assess additional duties on German merchandise then this is very surprising in view of the fact that during a period of almost three years America has not remonstrated against the method of subsidizing German exports. Whatever America's underlying reasons may be for its customs policy toward Germany, it stands in unexplicable contradiction to the demands for a revival of world trade.

"Berliner Boersen-Zeitung"

June 9, 1936

THE AMERICAN ANTI-DUMPING DUTIES

As recently reported, the United States Treasury Department has approved a decision to the effect that countervailing duties are to be assessed on certain exports from Germany. This measure came as a great surprise. It is based upon the policy of protective tariffs and the closely-allied anti-dumping legislation, which have for their purposes the assessment of additional duties on importations of merchandise, insofar as the American government authorities are convinced that such merchandise was sold below cost of production and at a price considerably lower than the offers of the competitors. The instant decision of the United States Treasury Department is therefore based upon regulations which originated at a time when the dollar had not yet been devalued and when America was obliged to regard the exports from countries with devalued currencies as dumping-competition. An American report states that the prescribed countervailing duties will go into effect 30 days after the publication of the decision in the printed Treasury Decisions and that the decision would, presumably, appear in the issue of Thursday, June 11, of the Treasury Decisions. Hence the dumping-countervailing duties, as prescribed by the American Government, will be assessed on important categories of German merchandise, effective July 11, 1936. It is further announced that the rates may be changed from time to time and that new articles may be added to the list, depending upon the results of further investigations. In New York importing circles, too, the present decision of the American Government is felt to be an action dictated by an absolute lack of understanding for the German problem of adjusting its prices to the depreciation of the dollar. On this occasion it might be interesting to recall that about a year ago the American Secretary of State Hull pointed out that certain countries (including, apparently, Germany) could not exist without the importation of raw materials and the exportation of the finished merchandise produced therefrom. If these countries are not in a position, Mr. Hull continued, to import raw materials from the United States, this would, in the last analysis, have a disastrous effect upon America's production and inland market. At that time we already pointed out that American exportation, on the one hand, is dependent upon a corresponding importation on the other. It therefore rests with the American government to provide the conditions which would tend to increase importation, and would make it possible for the rest of the world (including Germany) to purchase raw materials and agricultural products from the United States. American export circles are not unmindful of the fact that American exports to Germany can only be increased if German merchandise is at least admitted into the United States under the same

conditions as are applicable to the importations from other European countries. The antidumping measures now approved by the American Government will in no way serve to improve the German-American trade relationship. Nor will they tend to facilitate the transfer of interest payments on the Dawes and Young-Plan loans.

"Deutsche Allgemeine Zeitung"

June 9, 1936

OUR OPINION

At the end of last week, the American Treasury Department came to a surprising decision, according to which countervailing duties are to be levied upon certain specified German goods; the American duty increases are hard to understand. Above all, it is pointed out that they were undertaken on the strength of Art. 303 of the American Tariff Act. This law, which provided for countervailing duties as a protection against eventual dumping measures of other countries by means of currency devaluation or similar steps, came into existence at a time when the American dollar was still looked upon as the most stable currency in the world. In the meantime, the situation has become completely changed - America has devalued and has joined the ranks of those countries from whose valuta-dumping it wanted to protect itself by the above-named countervailing duties. German prices, on the other hand, are still being calculated on the gold basis, so that in this respect German merchandise cannot possibly have any price-advantage over American goods. The contrary is rather the case. Furthermore, on the basis of a thorough understanding of the entire situation, the American government authorities have heretofore held that no grounds existed for the application of the above-mentioned provisions of their tariff act to importations of German merchandise. If this new American measure is difficult to explain on the basis of the present situation, it is, on the other hand, not very likely to encourage the exportation of American goods to Germany. The American crisis is, in the last analysis, a crisis involving the consumption of its raw materials. This falling-off in consumption can only be eliminated by stimulating foreign trade and not by throttling it. The American Minister of Economics - Mr. Wallace - pointed out emphatically in a pamphlet "America Must Choose" that America must increase its imports if it wants to make good its losses in exports. Among other official American personalities, Secretary of State Hull has repeatedly pointed out the necessity of tariff reduction to promote the exchange of goods. In the face of this attitude of leading personalities of the America of today, the new decision of the Treasury Department is doubly inexplicable. America must choose: either it stands for an improvement of the reciprocal exchange of goods, in order to alleviate thereby the crisis in its own country, or it is for a hermetic sealing of its own borders against the importation of foreign goods; in the latter case it cannot be surprised if its exports fall off further. The choice should not be difficult.

Translation.
DWB/FB

Leipziger Neueste Nachrichten #163

June 11, 1936.

The United States has decided, as was previously reported, to introduce prohibitive special duties against several German products, especially on photographic cameras, cotton and rayon gloves, table porcelain, Christmas tree ornaments, glass and toys. They base this striking measure, whose effect upon German exporting to the United States, after it has already declined from 1932 on 281 million RM to 170 mill. RM, is bound to be unbeneficial, upon anti-dumping regulations. The amount of the new "Countervailing Duties" should correspond to the amount of subsidy which ostensibly the German government pledges for the export of these goods. The regulation includes a further impediment in that a determined amount must be deposited by the German exporter at time of entry until the exact amount of the countervailing duty can be determined. This measure runs counter to the declarations which the German Government gave the American Federal Government concerning its export control measures: Germany declared that for exports to the United States no compensation out of the Voluntary Export Self Help Fund of Germany's industry is made.

How do things stand? The Tariff Act from which the new American measure follows, originated in 1922. At that time the dollar and the pound were stable and the United States wanted to protect itself against dumping exports of countries with devaluated currencies. Since that time the dollar and the pound have been devaluated. These currency measures effected nothing more than price reductions for benefitting exports. Should not Germany now take measures on its own behalf to protect itself from these price reductions through devaluated currencies? The new American measure is incomprehensible also because of late the United States has expressed itself for an increased promotion of foreign trade. Secretary of State Hull represents a trade policy of most-favored nation clauses; and the American Secretary of Agriculture Wallace declared lately the very fact that the United States was a creditor nation with foreign credits of over 12 billion dollars should forbid the exclusion of foreign goods. For some time the American trade policy has taken a course wherein reduction in duties against foreign goods is traded for concessions benefitting American exports. It has been observed that the continuously high export surplus of the United States disrupts the balance of world trade and brings to the United States only an unwanted importation of gold.

The new measures against Germany unfortunately depart strongly from this policy. They mistake entirely the emergency into which the German exporter has fallen through the devaluation of the dollar and pound and they fail to observe that Germany can only import foreign goods if a margin of play is allowed from his exports to obtain the

necessary foreign exchange for imports. Although Germany's foreign trade with the United States has experienced in late years a heavy reduction, the balance with respect to the United States was still 70 mill. RM passive. In other words, we purchased from them 70 million reichsmarks more goods than they bought from us. If the new American measures really are put through, then Germany will be obliged to curtail further its imports from the United States, after it was reduced from about 600 million RM in 1932 to about 240 mill. RM at present. The American measures contradict the program of the Roosevelt administration to eliminate world trade barriers. They contradict the export interests of the United States itself, which still maintains 11 million unemployed, and they contradict, above all, the efforts which are being made to re-establish world trade.

Translation."Frankfurter Zeitung"

June 9, 1936.

What does Washington Want?Concerning the American Tariff Measures.

Between Germany and the United States there has existed for some time a condition of suspense with regard to trade policies. America, alone among the greater nations, has refused to draw practical results from the difficulties of the transfer question. It continues on the basis of free, multilateral world trade, which it seeks to clarify and strengthen by means of its recently completed Foreign Trade Agreements. It avoids every complication of trade and financial questions. In a word, it represents trade principles which have held good in the past and whose fruitfulness no one even in Germany would deny. But Germany which is more closely interlaced in World trade, which as Reparation and Debtor country has fallen into the greatest foreign exchange difficulties, cannot, taking into consideration all the advantages of orthodox trade policy, pass over the fact that the conditions for its application or the present time do not exist. The Protectionism of the creditor nations, one with them the United States, and their increasingly grasping currency devaluations have forced Germany over and over again to point out that debtor service and importing can only be paid out of export surpluses. The European creditor nations themselves have secured German trade surpluses with clearing agreements of every description and German trade policy must needs emphasize more and more even to the rest of the nations, despite its disadvantages the German exporting and world trade which were foreseen all too well. There remains a hope that we can also make ourselves better understood with the United States. Up to now, however, American trade policy has avoided all these questions.

German imports from the United States decreased from almost 600,000,000 RM in 1932 to 343,000,000 RM in 1935; German export decreased from 281,000,000 RM to 170,000,000 RM - that is a considerably sharp reduction. Nevertheless the German trade balance in respect to the United States was, even last year, well over 70,000,000 RM passive. What does it mean, then, when special tariffs are levied against a country which buys 40% more than it sells. As was reported last Sunday, basing its action on Par. 303 of the Tariff Act, the United States Treasury Department levied on several German products special duties which equal the German measure for subsidizing its exports without which export would be entirely impossible. If a country resists in this manner the imports from a state which buys much more than it sells, it is most always short sighted, but understandable. But here there is lacking a tangible motive. Thereby one must reflect that the Par. 303 mentioned was released in 1921 at a time when the dollar was considered the stablest of currencies. At that time the law formed a defense

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against the awaited devaluation of European currencies, but now the situation is reversed. The dollar is devaluated, which meant for American imports a strong increase in duties, but which for American exports and for all other nations meant a most emphatic and marked export subsidy. How unlogical it is in this position to levy special duties against Germany, is shown best by the fact that at its inception no manipulation would have existed if Germany had also devaluated, although German exports would have enjoyed a much greater support through this than through other subsidy measures which possess only partial balance against the foreign devaluation competitions. Above all, Germany has met this currency balance, which earlier was effected by Scrips and Bond repurchase plans, for years, without America introducing any difficulties, so that the choice of a time for these new measures is difficult to clear up.

On the German side it certainly will not be unrecognized that the presence of that article in the American Tariff Act, originating in entirely different time and circumstances, means for the government of the United States a formal decision, but on the other hand, Germany cannot refrain from pointing out the dissonance existing between the law and the present given circumstances. Instead of the reduction of obstacles to trade striven for by the American Government there now towers up a new bastion which cannot be surmounted by German exporting. That will naturally have as a result a shrinkage of German imports from America. For both sides, therefore, a disadvantage arises. Germany's import capacity, and its service on financial obligations depend on the maintenance of the modest exporting which it still retains.

DWH/FB

"Hamburger Fremdenblatt"

June 9, 1936.

Trade Obstacles.

The unintelligible measure of the American government to collect so-called "Countervailing Duties" upon imports from Germany is an example of the confusion which obtains in the world today and in the past. The United States Treasury Department sees in Par. 303 of the Tariff Act (an anti-Dumping measure) the basis for raising these duties. But the Act was set up in the days of the stable gold dollar and was directed originally against countries which, through inflations or currency devaluations, have won price advantages over the United States. Now, however, the situation is reversed. The dollar is devaluated; the Reichsmark stands at its old parity. Now it is difficult to understand this paradoxical change, and the problem is not made easier by basing it on the German export subsidy measures.

For one thing the well-known Scrips system, which the American Government has recognized during the past few years at least by its silence, can be called to account, and besides it cannot be claimed as a price reduction, below the devaluated dollar. That was the standpoint up to the present time, of the United States, which had represented the opinion, even a short time ago, that the conditions for applying the Anti-Dumping paragraphs of the Tariff Act against German imports did not exist.

If the sudden reversal of opinion in the light of the facts is unintelligible, it is also surprising from the point of view of commerce and trade policy; for even in this light it does not justify the clear essentials. Germany's standpoint is as unequivocal as it is unassailable: it can buy in foreign countries only as much as it can pay for with exports. That is generally true, but also in trade between nations. It is well known that the goal is to make the extent of foreign trade as large as possible. But trade between countries is beneficial to all partners, and the voices of many influential Americans have spoken for the same goal. But unintelligible increase in customs duties effect just the opposite. They choke trade, as in the present case in two countries whose foreign trade might be increased.

How positive the efforts of Germany have been to maintain its foreign trade with the United States despite all the obstacles which have piled up in the United States is shown by the fact that Germany still shows a passive balance in its trade with that country. Added to that, America as the greatest creditor nation has special demands on interest transfer without affording the possibility of changing Reichsmarks into dollars by the importation of German goods. This transfer must therefore suffer further from the introduction of trade choking countervailing duties. There appears, therefore, to be no advantage accruing by the operation of the measures lately announced by the U.S. Treasury Department. On the other hand, the many sided disadvantages, with relation to the rebuilding of international commerce also are very clearly to be seen.



UNITED STATES TREASURY DEPARTMENT

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OFFICE OF
THE TREASURY ATTACHE

June 18, 1936

The Honorable
The Secretary of The Treasury
Washington, D. C.

(Through the Commissioner of Customs)

Sir:

In pursuance of cable instructions received through the office of the Treasury Attache in Paris, this office has collected a number of editorial comments from leading German newspapers regarding the recent decision to apply countervailing duties on certain classes of German merchandise. Translations of these newspaper comments are enclosed.

The comment from the Textil-Zeitung of June 7th represents what appears to be the stereotyped press release from the D. N. B., as this identical article appeared in nearly all German newspapers in the same form as carried in the Textil-Zeitung.

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Respectfully,

sgd) Erwin G. May

ERWIN G. MAY
Treasury Attache

"Textil-Zeitung"

Berlin, June 7, 1936

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June 9, 1936

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Berlin, June 5, 1936

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The decree of the American Treasury Department is the result of investigations which have been taking place for many months with respect to German foreign exchange and export measures. The result of the investigations was such, that the provisions of the repeatedly-mentioned article 303 of the American Tariff Act of 1930 were considered applicable. The copious information furnished by the German Government in March of this year in reply to the questionnaire submitted by the American Government, has apparently been able to change nothing in this development. One may assume that the American Government, for its part, wants no aggravation of the difficulties in the exchange of merchandise with Germany and simply felt obliged to take action consistent with the evidence obtained in the course of the investigations.

Since the expiration of the German-American Trade Treaty on October 14, 1935, the two countries, by tacit agreement, have waived all avoidable difficulties in their commerce. Of course, the most-favored-nation treatment has been discontinued. Germany applies to American merchandise the rates of the general tariff, but waives the application of the super-tariff provided for in the tariff law, which is a decidedly retaliatory measure. From official advice given out in Berlin, it may be concluded that this decision of the Treasury Department came unexpectedly. The exhaustive reply to the questionnaire and the friendly attitude of the German Government toward the influx of American merchandise were considered to be sufficient guarantee against a further aggravation of the situation by America. It would be erroneous to consider the measure emanating from Washington as the inauguration of a series of increasingly unfriendly measures on the part of the two governments. It is possible that Germany may suggest a revision of the Treasury Department's decision. In this event, Germany can count on the cooperation of the American Government inasmuch as the decline of its exports to Germany showed America the trend of the development and the fact that Germany would purchase even less American goods if the payment of such merchandise

by means of deliveries from Germany were rendered increasingly difficult.

The question must also be viewed from the angle of Germany's external indebtedness. A country which wishes to carry on trade with another country, and, in addition, has running payments to make on its debts, is obliged to attain a surplus in its foreign trade if it is to meet these obligations. In Washington they no doubt realize that the payment of interest and amortization on the Dawes and Young-Plan loans is not facilitated if Germany's exportation to America is rendered more difficult. Several months ago representatives of the German Foreign Office were in America for the purpose of investigating the possibilities for negotiating a trade agreement. Since then the exchange of opinion on this subject is being continued by correspondence. Even though the desire of both countries is for a friendly economic relationship with a new trade agreement as the final goal, a temporary solution would, at the moment, seem to be more urgent and easier. This agreement should restore the most-favored-nation clause and thereby abolish the handicap under which the goods of the one country now suffer in the other. The concessions which America will make to Germany's export and foreign exchange difficulties will depend upon the extent of its recovery from the economic crisis.

"Der Angriff" June 10, 1936.

"People in Glass Houses . . ."

Surprising Increase in American Customs Duties.

The news of the decision of the United States Treasury Department to assess a high special duty on certain important categories of German merchandise was regarded as untrue when first reported in Germany. This shows best of all the surprise with which the news was received which we now find to have been quite accurate. It is difficult to perceive what advantage will result from this measure.

The decision of the Treasury Department is based on Section 303 of the Tariff Act. This section states in effect, that countervailing duties ranging between 20 and 65% may be levied on the merchandise imported from countries granting direct or indirect subsidies. This law was made at a time when the dollar still had its former high gold value of RM 4.20, when the United States was an expensive country in terms of gold and rightly feared a certain unfair competition on the part of Europe. In the meantime America has devalued the dollar to RM 2.50 and, in the last analysis, its own methods now are those against which formerly it wished to protect itself. On those countries, like Germany, which have not devalued their currencies, this devaluation has the same effect as if America were to reduce the price of its merchandise through an export subsidy. It is, therefore all the more astonishing that the United States applies this special duty to only a group of German exportations and that in doing so it cites the above-mentioned old law.

Of course, it must be assumed that certain branches of industry have urged this step on the basis of the existing law. But this does not make it less inimical to commerce and trade. It is also astonishing that this action was not taken earlier. For years we have made no secret of our export subsidy by means of which we try to meet the ever increasing competition of the countries with devalued currencies, now that considerable portion of our foreign markets have been snatched from us.

Cotton and leather gloves, toys and Christmas tree ornaments, as well as photographic cameras and tableware are especially affected by this additional duty. In 1934 our exports of leather gloves amounted to approximately 1.7 million pairs, of which America took approximately 833,000 pairs. In 1935 America took 733,000 pairs out of a total of 1.6 million pairs. America's share is therefore approximately one half. Exports of cotton gloves dropped from 11,000,000 kg in 1934 to 8,000,000 kg in 1935. This is due to the decline of exports

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to the United States. The latter declined from 4,617,000 kg. valued at 9.4 million reichsmarks to 2,359,000 kg. with a value of 5.3 million reichsmarks. The German glove industry has for some time complained of a boycott on the part of the American wholesale trade, which, it is true, has shown indications of calming down during the past few months. During the past year America purchased toys having a total value of 3.4 million reichsmarks as against 2.9 million reichsmarks in 1934. This amounts to about 10% of our exports. The Christmas tree ornaments exported to the United States amounted to 1.2 million reichsmarks, as against 0.6 million reichsmarks in 1934. Exports of cameras had a total value of 2.4 million reichsmarks, as against 1.2 million reichsmarks in 1934.

Inasmuch as this additional duty makes exportation from Germany more difficult, and unjustly so, retaliatory measures may be expected, unless an understanding is reached. Such an understanding would certainly be desirable from the standpoint of both parties. In the opinion of American interests the new regulations which are to go into effect on July 11, 1936, are a severe blow to German-American trade relations. The New York importers have become nervous, are commencing to cancel their orders and brand the action of their Government as based on an absolute lack of understanding for the German problem of adjusting its prices to the depreciation of the dollar. The New York Association of Importers has petitioned the United States Treasury Department to postpone the effective date of this new regulation. In April 1936 Germany's share in America's total imports, declined ten percent. American imports, on the other hand, increased 20%. The importing firms in the United States consider American exports to Germany to be in constant danger unless a reciprocal trade agreement is soon concluded.

American business circles interested in exportation to Germany are not unmindful of the fact that American exports to Germany can only be increased if German goods are admitted to the United States at least on the same favorable terms as are accorded to the other European countries as Belgium, Sweden and France.

It remains to be seen when the American business interests involved will realize that the prescribed dumping duties will not facilitate the German transfer of interest on the Dawes and Young Plan loans.

"Industrie- & Handelsblatt der Thüringer Allgemeinen Zeitung", Erfurt.

June 10, 1935.

The Underlying Reasons for America's Assessment of

Additional Duties

It is a well-worn truism that the international exchange of goods is based upon reciprocity, that is, upon reciprocal concessions in matters of importation and exportation adapted to the national resources and the necessities of life of each country. It is only since the existence of the Treaty of Versailles that the abuse has gained ground to let political factors play a part in international trade. It is true that while these factors are often negligible in actual practice, their rôle in economic agitation is all the more important. First of all must be mentioned concessions in the way of customs duties. The United States Government is especially interested in such concessions, even if they amount to nothing and a theoretical concession actually results in an increase in duties. It is scarcely believable but nevertheless a fact, proven by the negotiations relative to a trade agreement between the United States and a South American country. One fine day the United States threatened this country with customs reprisals in case it did not grant concessions for the importation of American goods. As a matter of fact, no concessions could be granted in many cases for the importations were duty-free. This was true of flour, for example. America, however, adhered to its demands, and insisted upon actual duty concessions. The South American country found the following way out of its difficulty: A duty was imposed on flour, which had heretofore been duty-free. Whereupon America was offered as a "concession" the reduction of this duty upon American importations, and this offer was accepted by the United States. Now the demands of the United States Government had been met, and both parties were satisfied.

We are reminded of this true story when we now read that the United States intend to assess a countervailing duty on certain products from Germany, on the basis of a decision of the Attorney General in charge of Customs in accordance with which certain provisions of Section 303 of the Tariff Act are applicable to certain dutiable importations from Germany. The section in question originated in the years 1921/22 and was to make possible the assessment of countervailing duties upon merchandise from countries whose currencies had depreciated to a greater or less degree in relation to the United States dollar. At that time the dollar was anchored tightly to the gold standard and was regarded as one of the safest and most stable currencies of the world, while Germany was going through a terrible inflation. If America now feels

obliged to apply Section 305 to a part of the German importations then this intention is devoid of any reasonable basis: for at present the monetary situation is exactly reversed. The German Reichsmark is maintained strictly at its old par value while America has devalued its dollar by more than 40%.

Hence, it is we who could be speaking of an artificial price reduction of American exports! The natural consequences of this currency situation is that German merchandise is too expensive for the United States, and this, together with America's protective tariff policy, makes it extremely difficult to sell German merchandise. Germany, on the other hand, is forced to export, especially to the United States, if it is to pay its debts to America. As every child knows, these debts can be paid with money, i.e. foreign exchange, which we do not possess, or with merchandise which the creditor country accepts to the extent it desires to withdraw its credits.

But what do the Americans do? Just the opposite! Instead of a greater willingness to accept German merchandise we hear only lamentations about nonpayment of debts together with incessant complaints on the part of various commercial interests about the alleged dumping of German merchandise or the discrimination against American imports into Germany. By "dumping" they mean the German export subsidy, but forget that with this subsidy we are only doing what foreign countries taught us and forced us to do when they devalued their currencies. If certain countries were prepared to permit an increase in German importation in order to enable Germany to make arrangements with respect to the payment of Dawes loan coupons more favorable to the nationals of those countries, then other countries are also privileged to obtain the same advantages for their citizens by granting similar concessions for German importations. An international discrimination is therefore out of the question.

If Americans now seize upon this or that alleged discrimination in order to assess additional duties on German merchandise then this is very surprising in view of the fact that during a period of almost three years America has not remonstrated against the method of subsidizing German exports. Whatever America's underlying reasons may be for its customs policy toward Germany, it stands in unexplicable contradiction to the demands for a revival of world trade.

"Berliner Borsen-Zeitung"

June 9, 1936

THE AMERICAN ANTI-DUMPING DUTIES

As recently reported, the United States Treasury Department has approved a decision to the effect that countervailing duties are to be assessed on certain exports from Germany. This measure came as a great surprise. It is based upon the policy of protective tariffs and the closely-allied anti-dumping legislation, which have for their purpose the assessment of additional duties on importations of merchandise, insofar as the American government authorities are convinced that such merchandise was sold below cost of production and at a price considerably lower than the offers of the competitors. The instant decision of the United States Treasury Department is therefore based upon regulations which originated at a time when the dollar had not yet been devalued and when America was obliged to regard the exports from countries with devalued currencies as dumping-competition. An American report states that the prescribed countervailing duties will go into effect 30 days after the publication of the decision in the printed Treasury Decisions and that the decision would, presumably, appear in the issue of Thursday, June 11, of the Treasury Decisions. Hence the dumping-countervailing duties, as prescribed by the American Government, will be assessed on important categories of German merchandise, effective July 11, 1936. It is further announced that the rates may be changed from time to time and that new articles may be added to the list, depending upon the results of further investigations. In New York importing circles, too, the present decision of the American Government is felt to be an action dictated by an absolute lack of understanding for the German problem of adjusting its prices to the depreciation of the dollar. On this occasion it might be interesting to recall that about a year ago the American Secretary of State Hull pointed out that certain countries (including, apparently, Germany) could not exist without the importation of raw materials and the exportation of the finished merchandise produced therefrom. If these countries are not in a position, Mr. Hull continued, to import raw materials from the United States, this would, in the last analysis, have a disastrous effect upon America's production and inland market. At that time we already pointed out that American exportation, on the one hand, is dependent upon a corresponding importation on the other. It therefore rests with the American government to provide the conditions which would tend to increase importation, and would make it possible for the rest of the world (including Germany) to purchase raw materials and agricultural products from the United States. American export circles are not unmindful of the fact that American exports to Germany can only be increased if German merchandise is at least admitted into the United States under the same

conditions as are applicable to the importations from other European countries. The antidumping measures now approved by the American Government will in no way serve to improve the German-American trade relationship. Nor will they tend to facilitate the transfer of interest payments on the Dawes and Young-Plan loans.

"Deutsche Allgemeine Zeitung"

June 9, 1936

OUR OPINION

At the end of last week, the American Treasury Department came to a surprising decision, according to which countervailing duties are to be levied upon certain specified German goods; the American duty increases are hard to understand. Above all, it is pointed out that they were undertaken on the strength of Art. 303 of the American Tariff Act. This law, which provided for countervailing duties as a protection against eventual dumping measures of other countries by means of currency devaluation or similar steps, came into existence at a time when the American dollar was still looked upon as the most stable currency in the world. In the meantime, the situation has become completely changed - America has devalued and has joined the ranks of those countries from whose valuta-dumping it wanted to protect itself by the above-named countervailing duties. German prices, on the other hand, are still being calculated on the gold basis, so that in this respect German merchandise cannot possibly have any price-advantage over American goods. The contrary is rather the case. Furthermore, on the basis of a thorough understanding of the entire situation, the American government authorities have heretofore held that no grounds existed for the application of the above-mentioned provisions of their tariff act to importations of German merchandise. If this new American measure is difficult to explain on the basis of the present situation, it is, on the other hand, not very likely to encourage the exportation of American goods to Germany. The American crisis is, in the last analysis, a crisis involving the consumption of its raw materials. This falling-off in consumption can only be eliminated by stimulating foreign trade and not by throttling it. The American Minister of Economics - Mr. Wallace - pointed out emphatically in a pamphlet "America Must Choose" that America must increase its imports if it wants to make good its losses in exports. Among other official American personalities, Secretary of State Hull has repeatedly pointed out the necessity of tariff reduction to promote the exchange of goods. In the face of this attitude of leading personalities of the America of today, the new decision of the Treasury Department is doubly inexplicable. America must choose: either it stands for an improvement of the reciprocal exchange of goods, in order to alleviate thereby the crisis in its own country, or it is for a hermetic sealing of its own borders against the importation of foreign goods; in the latter case it cannot be surprised if its exports fall off further. The choice should not be difficult.

The United States has decided, as was previously reported, to introduce prohibitive special duties against several German products, especially on photographic cameras, cotton and rayon gloves, table porcelain, Christmas tree ornaments, glass and toys. They base this striking measure, whose effect upon German exporting to the United States, after it has already declined from 1932 on 261 million RM to 170 mill. RM, is bound to be unbeneficial, upon anti-dumping regulations. The amount of the new "Countervailing Duties" should correspond to the amount of subsidy which ostensibly the German government pledges for the export of these goods. The regulation includes a further impediment in that a determined amount must be deposited by the German exporter at time of entry until the exact amount of the countervailing duty can be determined. This measure runs counter to the declarations which the German Government gave the American Federal Government concerning its export control measures: Germany declared that for exports to the United States no compensation out of the Voluntary Export Self Help Fund of Germany's industry is made.

How do things stand? The Tariff Act from which the new American measure follows, originated in 1922. At that time the dollar and the pound were stable and the United States wanted to protect itself against dumping exports of countries with devaluated currencies. Since that time the dollar and the pound have been devaluated. These currency measures effected nothing more than price reductions for benefitting exports. Should not Germany now take measures on its own behalf to protect itself from these price reductions through devaluated currencies? The new American measure is incomprehensible also because of late the United States has expressed itself for an increased promotion of foreign trade. Secretary of State Hull represents a trade policy of most-favored nation clauses; and the American Secretary of Agriculture Wallace declared lately the very fact that the United States was a creditor nation with foreign credits of over 12 billion dollars should forbid the exclusion of foreign goods. For some time the American trade policy has taken a course wherein reduction in duties against foreign goods is traded for concessions benefitting American exports. It has been observed that the continuously high export surplus of the United States disrupts the balance of world trade and brings to the United States only an unwanted importation of gold.

The new measures against Germany unfortunately depart strongly from this policy. They mistake entirely the emergency into which the German exporter has fallen through the devaluation of the dollar and pound and they fail to observe that Germany can only import foreign goods if a margin of play is allowed from his exports to obtain the

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necessary foreign exchange for imports. Although Germany's foreign trade with the United States has experienced in late years a heavy reduction, the balance with respect to the United States was still 70 mill. RM passive. In other words, we purchased from them 70 million reichsmarks more goods than they bought from us. If the new American measures really are put through, then Germany will be obliged to curtail further its imports from the United States, after it was reduced from about 600 million RM in 1932 to about 240 mill. RM at present. The American measures contradict the program of the Roosevelt administration to eliminate world trade barriers. They contradict the export interests of the United States itself, which still maintains 11 million unemployed, and they contradict, above all, the efforts which are being made to re-establish world trade.

Translation.

"Frankfurter Zeitung"

June 9, 1936.

What does Washington Want?Concerning the American Tariff Measures.

Between Germany and the United States there has existed for some time a condition of suspense with regard to trade policies. America, alone among the greater nations, has refused to draw practical results from the difficulties of the transfer question. It continues on the basis of free, multilateral world trade, which it seeks to clarify and strengthen by means of its recently completed Foreign Trade Agreements. It avoids every complication of trade and financial questions. In a word, it represents trade principles which have held good in the past and whose fruitfulness no one even in Germany would deny. But Germany which is more closely interlaced in World trade, which as Reparation and Debtor country has fallen into the greatest foreign exchange difficulties, cannot, taking into consideration all the advantages of orthodox trade policy, pass over the fact that the conditions for its application or the present time do not exist. The Protectionism of the creditor nations, one with them the United States, and their increasingly grasping currency devaluations have forced Germany over and over again to point out that debtor service and importing can only be paid out of export surpluses. The European creditor nations themselves have secured German trade surpluses with clearing agreements of every description and German trade policy must needs emphasize more and more ~~even~~ to the rest of the nations, despite its disadvantages the German exporting and world trade which were foreseen all too well. There remains a hope that we can also make ourselves better understood with the United States. Up to now, however, American trade policy has avoided all these questions.

German imports from the United States decreased from almost 600,000,000 RM in 1932 to 343,000,000 RM in 1935; German export decreased from 281,000,000 RM to 170,000,000 RM - that is a considerably sharp reduction. Nevertheless the German trade balance in respect to the United States was, even last year, well over 70,000,000 RM passive. What does it mean, then, when special tariffs are levied against a country which buys 40% more than it sells. As was reported last Sunday, basing its action on Par. 303 of the Tariff Act, the United States Treasury Department levied on several German products special duties which equal the German measure for subsidizing its exports without which export would be entirely impossible. If a country reacts in this manner the imports from a state which buys much more than it sells, it is most always short sighted, but understandable. But here there is lacking a tangible motive. Thereby one must reflect that the Par. 303 mentioned was released in 1921 at a time when the dollar was considered the stablest of currencies. At that time the law formed a defense

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against the awaited devaluation of European currencies, but now the situation is reversed. The dollar is devaluated, which meant for American imports a strong increase in duties, but which for American exports and for all other nations meant a most emphatic and marked export subsidy. How unlogical it is in this position to levy special duties against Germany, is shown best by the fact that at its inception no manipulation would have existed if Germany had also devaluated, although German exports would have enjoyed a much greater support through this than through other subsidy measures which possess only partial balance against the foreign devaluation competitions. Above all, Germany has met this currency balance, which earlier was effected by Scrips and Bond repurchase plans, for years, without America introducing any difficulties, so that the choice of a time for these new measures is difficult to clear up.

On the German side it certainly will not be unrecognized that the presence of that article in the American Tariff Act, originating in entirely different time and circumstances, means for the government of the United States a formal decision, but on the other hand, Germany cannot refrain from pointing out the dissonance existing between the law and the present given circumstances. Instead of the reduction of obstacles to trade striven for by the American Government there now towers up a new bastion which cannot be surmounted by German exporting. That will naturally have as a result a shrinkage of German imports from America. For both sides, therefore, a disadvantage arises. Germany's import capacity, and its service on financial obligations depend on the maintenance of the modest exporting which it still retains.

DWH/FB

"Hamburger Fremdenblatt"

June 9, 1936.

Trade Obstacles.

The untellable measure of the American Government to collect so-called "Countervailing Duties" upon imports from Germany is an example of the confusion which obtains in the world today and in the past. The United States Treasury Department sees in Par. 303 of the Tariff Act (an anti-dumping measure) the basis for raising these duties. But the Act was set up in the days of the stable gold dollar and was directed originally against countries which, through inflations or currency devaluations, have won price advantages over the United States. Now, however, the situation is reversed. The dollar is devaluated; the Reichsmark stands at its old parity. Now it is difficult to understand this paradoxical change, and the problem is not made easier by basing it on the German export subsidy measures.

For one thing the well-known Scissors system, which the American Government has recognized during the past few years at least by its silence, can be called to account, and besides it cannot be claimed as a price reduction, below the devaluated dollar. That was the standpoint up to the present time, of the United States, which had represented the opinion, even a short time ago, that the conditions for applying the Anti-Dumping paragraphs of the Tariff Act against German imports did not exist.

If the sudden reversal of opinion in the light of the facts is unintelligible, it is also surprising from the point of view of commerce and trade policy; for even in this light it does not justify the clear essentials. Germany's standpoint is as unequal as it is unassailable: it can buy in foreign countries only as much as it can pay for with exports. That is generally true, but also in trade of foreign trade as large as possible. But trade between countries is beneficial to all partners, and the voices of many influential Americans have spoken for the same goal. But untellable increase in customs duties effect just the opposite. They choke trade, as in the present case in two countries whose foreign trade might be increased.

How positive the efforts of Germany have been to maintain its foreign trade with the United States despite all the obstacles which have piled up in the United States is shown by the fact that Germany still shows a passive balance in its trade with that country. Added to that, America as the greatest trading nation has special demands on interest transfer without affording the possibility of changing Reichsmarks into dollars by the importation of German goods. This transfer must therefore suffer further from the introduction of trade obstacles countervailing duties. There appears, therefore, to be no advantage accruing by the operation of the measures lately announced by the U.S. Treasury Department. On the other hand, the many sided disadvantages, with relation to the rebuilding of international commerce also are very clearly to be seen.

80A

Wednesday
June 17, 1936
(Between 8:25 and 9 a. m.)

HMjr: I don't know whether you can help me on this. But I've never been under such pressure in my life to appoint anybody as I have this Truitt.

Stanley
Reed: Yes

HMjr: Do you know where that pressure is coming from? I asked Farley and he said he'd never heard of him.

R: No, I do not. Of course I know Truitt.

HMjr: Yes

R: And I know he'd like to have that place.

HMjr: Yes

R: But I know of nothing of any pressure at all. Naturally he has lots of friends, and his father-in-law has too, you know.

HMjr: Well, I don't think his father-in-law is doing it. In fact I asked the question and I understand he's not. I mean -

R: Well, I'm sure that his father-in-law wouldn't -

HMjr: No -

R: - wouldn't do anything more than to -

HMjr: He came in -

R: - probably said something to you about it.

HMjr: No, he came in, he was awfully nice about it. And I've had a lot of contact with him since, and I can tell that there is no feeling on his part.

R: Yes

HMjr: Do you know Truitt is only thirty-two years old?

R: I know he's young.

HMjr: Well, I just --

R: He's an awful hard worker, though.

HMjr: I know, but that's an awful big job, too.

R: Well, you have supervision over him from Oliphant.

HMjr: Well, Oliphant's position is that if he has a man of that age that he'd have to go over there and run it himself - that he'd have - he can't do that.

R: Well, it - as I thought is that the experience that I've had with Truitt was good -

HMjr: Yes

R: I had him in important cases and he stood right up under them. I had him in the Missouri-Pacific reorganization - that was a hard case and I had him out in the Central Republic Trust Company.

HMjr: Yes

R: And of course I'm in favor of younger men --

HMjr: Well, I'm never afraid of younger men, but - God, I don't know, it's - it seems - I think we've got more lawyers there than you people have over in your department. We've got two - over two hundred.

R: Well - you have more legal work to do than we do.

HMjr: Yes

R: Because you go into the thing from the beginning, you know?

HMjr: Yes

R: And it takes good men to clear it up - the facts in the matter. I've just been working on one of your tax cases yesterday and I - it's complicated from beginning to end. I spent the whole day on it.

HMjr: Yes

R: Especially the compromise.

HMjr: Yes

R: And they're very complicated and it does take a lot of work.

HMjr: Yes - of course my feeling is - you see I have no candidate for the job, you see? It isn't that I'm trying to push anybody because I haven't got

anybody.

R: You wouldn't have any difficulty with your candidate anyway.

HMjr: Pardon me?

R: Your candidate would be appointed anyway.

HMjr: My candidate?

R: Yes

HMjr: No, but I have no candidate.

R: I know, but if you had one there would be no argument about that.

HMjr: Yes, but as I say, it isn't as though I was trying to put somebody else in in place of Truitt. It's just that - that I consider it the number two legal job in the Treasury.

R: I think it is.

HMjr: Yes

R: Of course it is, no question of that.

HMjr: Yes - God, I mean, it just seems as though -

R: Well, I don't want to over persuade you in it. I have told you I don't think he's the best man in the country for that place.

HMjr: Yes

R: But he's the best man that I have heard suggested and I thought enough of him to bring him down to second place in the RFC.

HMjr: Yes

R: And I - I haven't been disappointed in him in anything he's done.

HMjr: The first person that suggested him to me was Jerome Frank, did you know that?

R: No, I didn't know that.

HMjr: Yes

R: No, I don't see the connection there, except - well, I can tell you this about that. Truitt, when he was in St. Louis, was associated with Jerome Frank in the Railroad Division of the RFC.

HMjr: Oh -

R: And Jerome Frank is now over at the RFC, he's been detached from over at PWA, but he and Truitt worked together on this Missouri-Pacific Railroad reorganization.

HMjr: Yes

R: So that's where their contacts came.

HMjr: Yes - Is he a very good friend of Tommy Corcoran or Cochran - how do you pronounce that?

R: Truitt?

HMjr: Yes

R: Why I'm sure he is, I don't - I never saw them together but I know that Corcoran is over at the RFC.

HMjr: Oh yes

R: And while he isn't there very much he must have seen Truitt since he's been there.

HMjr: Yes

R: So Corcoran can tell you anything about him I am sure.

HMjr: I see. Well, I wish - I wish I could lay my fingers on - (Laughs) a man that everybody would say, 'Well, there you've got somebody that's just as good as Robert Jackson'.

R: Yes, well if I knew a man like that I'd be glad to get him.

HMjr: You'd take him yourself.

R: There are lots of them.

HMjr: What!?

R: There are lots of them if we just knew them, but they're awfully hard to find.

HMjr: Yes - well thanks, Stanley.

R: All right.

HMjr: Thank you.

June 18, 1936

Mr. Bell and the Secretary met to discuss expenditures for relief, both from old funds and the new appropriation of 1 billion 425 million.

The following was their conversation:

Bell: This is what I want to show you. For the next six months, beginning July 1, the various agencies will spend \$1,086,000,000, according to their estimates, of which \$150,000,000 is Works Progress liquidation. They will employ, on the average per month, 816,000 people and that's eliminating WPA and Emergency Conservation, because their expenditure will be merely liquidation.

HM, Jr.: But, notwithstanding they will employ 816,000 people? If no agency was given one dollar out of the new money, but with carryover from all funds, they could employ 816,000 people, on the average, per month? (Exhibit I)

Bell: That's right.

HM, Jr.: For how many months?

Bell: For six months.

HM, Jr.: In July they have 982,000 people, in August 979,000 people, September 852,000, October 798,000, November 653,000, December 634,000? That's all on old funds and not one dollar out of the 1 billion 425 million?

Bell: Doing that, they will spend \$1,086,000,000.

HM, Jr.: In this thing, that's just old funds?

Bell: Yes.

HM, Jr. suggested to Mr. Bell that the information be presented in another form. He said, "What I would like to say is, 'Now, Mr. President, in July you have 982,000 men who are going to work. Hopkins has 2,300,000. All you need, to bring up whatever the quota is for unemployment, is x money for Hopkins for July. I want to leave a space for that. What I am trying to get at is I want to be able to say, Here is the old money; how much new money do you think we should give Hopkins to put how many men to work in July? (See Exhibit II)

Bell: Of course, Hopkins will say we need to put 2,300,000 men to work. We probably, if you wanted it,

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could put in a separate heading for old funds and new funds and then put in these figures -- these people contemplate spending x much and put in what the employment figures are estimated at. You see, these estimates are made figuring that Red Tugwell will get \$85,000,000.

HM, Jr: What I want to do is just show the President how much new money will be spent which is out of his control. Then the new money, I don't want to put down a nickel. The figures will be filled in for the money which has already been allotted, but where there is new money, the employment and money titles will be there but they will be blank. I want to say to the President, If you are going to put a million men to work with the other funds, let's stop and think. How many men do you want to work? I have asked him to see you and me alone before he sees Hopkins.

Bell: This is just a summary; down here you get the cost per month. (Exhibit III.) Taking WPA, for December 1935 they spent \$119,000,000. In December 1936 they contemplate spending \$180,000,000. In December 1935 it cost them \$44.73 per man and in December 1936 they contemplate it will cost \$62.70 per man.

HM, Jr: This is grand. This is going to make him mad.

Bell: Take Public Works. In December 1935 they spent \$33,000,000 and in December 1936 they contemplate spending \$80,000,000. It cost \$317 per month per man in December 1935 and in December 1936 they estimate it will cost \$205 per man per month. That would show this figure on new funds is padded because here it gives in June, \$337 per man per month and now they suddenly drop to \$203 per month.

Resettlement cost \$330 per month per man in April. This excludes loans. In July they drop to \$262 and down to \$181 in December.

Public Highways. They started at \$141 per month per man in May 1935, went to \$194, in August, \$208 in September, \$240 in October. Seems to be high. Of course, this is old money, where they had no limitation; no restriction. Then you come to new money. They had a restriction of first \$1300 per man and then later that was raised and now they are jumping and that's where we've got the worst part of this problem. There is no relation between your expenditures

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and man cost because materials and contracts are in here which would show your man employment in the man, but your liquidation of the obligation comes in some subsequent month. That's the reason for the wide fluctuation.

Rivers and Harbors show \$320 per man per month in April 1935 and \$120 for December 1936.

Interior is fairly reasonable, although they suddenly jumped. This is most Reclamation.

HM, Jr: Gracious! Look at the Navy!

Bell: Pretty high.

HM, Jr: The whole thing looks terrible.

Bell: What is included in here is high construction cost; increase in the Navy.

HM, Jr: Well, you have given me just what I want. Incidentally, after we spend the carryover of \$1,086,000,000 how much carryover is left?

Bell: About 5 or 6 hundred millions.

HM, Jr: One other question that I argued with Harry. He said the only money Ickes can get is the \$300,000,000. I say no. The money he has now is when he sells securities he can only loan it. Any money coming back from sale of securities, he can give it all.

Bell: Up to \$300,000,000.

HM, Jr: I thought it was \$550,000,000.

Bell: No. What he does, he uses is the revolving fund, to sell securities and get the money back and instead of lending that money he can give it away. That's loans and grants.

HM, Jr: Then I am wrong. I understood there were two kinds of money. He has \$100,000,000 city bonds. He gives those to Jesse Jones. Jesse sells them and the money that comes back he can loan.

Bell: Under the law as it now stands.

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HM, Jr: Under the changed law he can now take that same money and give it away and, in addition, he can get \$300,000,000 additional over and above the securities he has from Jesse Jones.

Bell: No, I don't think so.

HM, Jr: Could you check that? I thought the figure came to \$550,000,000.

ESTIMATED EXPENDITURES (IN MILLIONS OF DOLLARS)
FROM EMERGENCY FUNDS FOR EACH MONTH OF THE PERIOD JULY 1 TO DECEMBER 31,
1936, AND THE NUMBER OF PERSONS DIRECTLY BENEFITED BY SUCH
EXPENDITURES

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
Expenditures							
Prior Emergency funds							
Works Progress Administration	75	40	15	10	5	5	150
Resettlement Administration	16	16	11	8	7	5	63
Emergency Conservation Work	30	6	5	5	4	5	50
Reclamation	7	7	6	6	6	5	38
Rivers and Harbors	16	14	13	10	8	6	67
Public Highways	26	31	35	36	28	25	181
Public Works Administration	59	78	66	66	51	55	365
Other Public Works	20	33	27	23	21	18	152
Total prior funds	239	225	178	161	130	120	1,066
New funds							
Works Progress Administration	100	130	150	150	160	175	865
Resettlement Administration	10	11	12	15	15	15	78
Emergency Conservation Work	6	30	31	31	32	30	156
Public Works Administration		5	10	15	20	25	75
Total new funds	116	176	203	209	225	245	1,178
Grand Total	355	401	381	373	355	365	2,112
Direct Employment							
							Average per month
Prior Emergency funds							
Works Progress Administration	-	-	-	-	-	-	-
Resettlement Administration (1)	49,000	49,000	49,000	49,000	49,000	49,000	49,000
Emergency Conservation Work	-	-	-	-	-	-	-
Reclamation	12,100	12,500	12,300	12,300	11,900	11,500	12,100
Rivers and Harbors (2)	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Public Highways	336,000	500,000	260,000	233,000	179,000	150,000	242,500
Public Works Administration	340,000	380,000	321,000	322,000	252,500	272,500	315,000
Other Public Works	195,100	186,700	158,000	132,000	113,700	101,100	146,400
Total from prior funds ..	680,200	975,200	890,300	866,300	745,100	634,100	848,600
New funds							
Works Progress Administration	2,350,000	2,450,000	2,550,000	2,450,000	2,650,000	2,900,000	2,500,000
Resettlement Administration (3)	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Emergency Conservation Work (2)	385,000	505,000	505,000	505,000	385,000	385,000	385,500
Public Works Administration		25,000	67,000	72,000	90,000	119,000	59,500
Total from new funds ...	2,785,000	2,985,000	2,852,000	2,907,000	3,185,000	3,454,000	2,995,100
Grand Total	3,465,200	3,960,200	3,742,300	3,773,300	3,930,100	3,988,100	3,843,700

(1) Average monthly employment only available. In addition a total number of 17,000 farm families will receive benefits from this expenditure but this number can not be distributed by month or according to prior or new funds.

(2) Average monthly employment only available.

Exhibit II

ESTIMATED EXPENDITURES (IN MILLIONS OF DOLLARS)
FROM EMERGENCY FUNDS FOR EACH MONTH OF THE PERIOD JULY 1 TO DECEMBER 31,
1936, AND THE NUMBER OF PERSONS DIRECTLY BENEFITED BY SUCH
EXPENDITURES

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
Expenditures							
Old Emergency funds	75	45	15	10	5	5	150
Works Progress Administration	16	16	11	8	7	5	69
Resettlement Administration	30	6	5	5	4		50
Emergency Conservation Work	7	7	6	6	6	6	38
Reclamation	16	14	13	10	8	6	67
Rivers and Harbors	26	31	35	36	28	25	181
Public Highways	69	78	66	66	51	55	385
Public Works Administration	30	33	27	23	21	19	193
Other Public Works							
Total old funds	269	225	178	164	130	120	1,086
Direct Employment							
							Average per month
Old Emergency funds	-	-	-	-	-	-	-
Works Progress Administration	49,000	49,000	49,000	49,000	49,000	49,000	49,000
Resettlement Administration (1)	-	-	-	-	-	-	-
Emergency Conservation Work	12,100	12,500	12,300	12,300	11,900	11,500	12,100
Reclamation	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Rivers and Harbors (2)	336,000	300,000	260,000	233,000	176,000	150,000	242,500
Public Highways	340,000	380,000	323,000	322,000	252,500	272,500	315,000
Public Works Administration	195,100	188,000	158,000	132,000	113,700	101,100	148,000
Other Public Works							
Total from old funds	982,200	979,500	852,300	798,300	653,100	634,100	816,600
Expenditures							
New Funds							
Works Progress Administration							
Resettlement Administration							
Emergency Conservation Work							
Public Works Administration							
Total new funds							
Direct Employment							
New Funds							
Works Progress Administration							
Resettlement Administration							
Emergency Conservation Work							
Public Works Administration							
Total from new funds							

(1) Average monthly employment only available. Does not include rural rehabilitation, loans or farm debt adjustment cases.

(2) Average monthly employment only available.

June 18, 1936.

Exhibit II

ESTIMATED EXPENDITURES (IN MILLIONS OF DOLLARS)
FROM EMERGENCY FUNDS FOR EACH MONTH OF THE PERIOD JULY 1 TO DECEMBER 31,
1936, AND THE NUMBER OF PERSONS DIRECTLY BENEFITED BY SUCH
EXPENDITURES

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
Expenditures							
<i>for Funds</i>							
Works Progress Administration	100	130	150	150	160	175	865
Resettlement Administration	10	11	12	13	13	13	72
Emergency Conservation Work	6	30	31	31	32	36	166
Public Works Administration		5	10	15	20	25	75
Total new funds	116	176	203	209	225	249	1,178
Direct Employment							
<i>for Funds</i>							
Works Progress Administration	2,350,000	2,350,000	2,350,000	2,100,000	2,650,000	2,900,000	2,500,000
Resettlement Administration	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Emergency Conservation Work	385,600	385,600	385,600	385,600	385,600	385,600	385,600
Public Works Administration		23,000	47,000	72,000	96,000	119,000	59,500
Total from new funds	2,785,600	2,808,600	2,832,600	2,907,600	3,181,600	3,454,600	2,995,100

SUMMARY OF THE EXPENDITURES, ACTUAL AND ESTIMATED, FROM EMERGENCY FUNDS FOR THE PERIODS APRIL TO DECEMBER 1935 AND APRIL TO DECEMBER 1936 FOR THE AGENCIES LISTED (IN MILLIONS OF DOLLARS)

	Works Progress Administration	Emergency Conservation Work	Public Works Administration	Resettlement Administration	Public Highways	Rivers and Harbors	Dept. of Agriculture (excluding highways)	Department of the Interior	Navy Department	Other Public Works	Federal Emergency Relief Administration	Total
1935												
April	-	36	22	-	16	8	1	7	11	7	144	258
May	-	39	42	1	18	11	2	5	12	10	133	273
June	-	44	43	1	19	11	2	5	9	9	203	326
July	-	46	43	1	29	10	2	7	9	9	99	194
August	2	52	35	2	30	11	2	10	10	10	105	267
September	15	55	26	3	24	13	3	10	8	10	85	248
October	31	61	27	4	24	14	4	6	14	11	83	279
November	48	50	25	5	18	15	4	4	13	11	75	268
December	119	47	33	7	15	16	5	4	9	16	40	320
Total	215	430	256	24	193	109	25	57	97	93	938	2,431
1936												
April	184	36	43	28	17	11	6	4	12	15	3	361
May	173	31	44	27	15	13	5	6	3	11	3	331
June	175	32	75	20	21	17	5	6	8	12	1	372
July	175	36	69	26	26	16	4	12	10	11	1	386
August	170	36	83	27	31	14	4	16	9	11	1	402
September	165	36	76	23	35	13	3	11	9	10	-	361
October	160	36	81	21	36	10	3	12	5	9	-	373
November	165	36	71	20	28	8	2	12	4	9	-	355
December	180	36	80	18	25	6	2	12	2	8	-	369
Total	1,547	315	622	210	234	108	34	93	62	96	9	3,330

SUMMARY OF COST PER MAN MONTH, ACTUAL AND ESTIMATED, OF EMPLOYMENT RESULTING FROM EMERGENCY FUNDS FOR THE PERIODS APRIL TO DECEMBER 1935 AND APRIL TO DECEMBER 1936 FOR THE AGENCIES LISTED

	Works Progress Administration	Emergency Conservation Work	Public Works Administration	Resettlement Administration	Public Highways	Rivers and Harbors	Dept. of Agriculture (excluding highways)	Department of the Interior	Navy Department	Other Public Works	Federal Emergency Relief Administration	Total
1935												
April	-	\$ 97.69	\$203.70	-	\$141.99	\$320.00	\$142.86	\$116.67	\$458.33	\$291.67	\$ 35.51	\$ 55.54
May	-	101.24	341.46	1,000.00	118.42	407.41	142.86	90.50	500.00	333.33	53.56	57.18
June	-	102.92	186.99	250.00	107.95	407.41	114.28	114.75	409.09	321.43	54.44	71.51
July	-	102.46	170.37	101.01	169.99	370.37	100.00	107.14	423.08	333.33	17.46	46.57
August	10.65	98.43	294.76	111.76	194.81	297.30	94.79	147.06	384.61	382.58	38.18	60.39
September	43.99	96.09	191.18	167.82	208.70	309.52	66.96	189.03	235.29	382.58	28.69	57.78
October	52.14	105.94	209.30	219.21	240.00	274.51	70.80	109.09	350.00	305.55	31.47	64.02
November	39.56	89.38	204.92	251.76	116.88	267.86	65.79	95.24	302.33	264.29	32.42	53.22
December	44.73	85.06	317.51	257.39	118.11	285.71	80.26	95.24	195.65	289.71	43.37	66.14
1936												
April	73.13	94.32	262.97	330.67	106.92	205.70	93.90	107.14	279.07	250.00	-	98.06
May	71.57	75.26	221.11	325.31	74.63	240.74	72.99	107.14	85.71	200.00	-	92.44
June	72.40	77.69	337.84	266.67	84.00	309.09	76.92	107.14	228.57	206.90	-	102.78
July	71.47	93.36	202.94	262.62	77.38	320.00	75.47	176.21	154.54	211.54	-	106.47
August	72.34	93.36	205.96	272.72	103.33	280.00	85.11	231.98	150.00	211.54	-	103.74
September	70.21	93.36	205.41	232.32	97.22	260.00	100.00	171.86	500.00	217.39	-	100.99
October	66.67	93.36	205.58	212.12	154.51	200.00	111.11	184.62	555.56	290.32	-	92.86
November	62.26	93.36	204.02	202.02	159.09	160.00	181.82	184.62	487.80	305.08	-	90.51
December	62.07	93.36	204.61	181.82	166.67	180.00	235.30	184.62	434.78	347.88	-	

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STATEMENT OF EXPENDITURES FROM EMERGENCY FUNDS, DIRECT EMPLOYMENT
RESULTING THEREFROM AND COST PER MAN MONTH FOR COMPARABLE MONTHS IN 1935 and 1936

Organization	EMPLOYMENT				EMPLOYMENT			
	Expenditures (in millions)	From Relief Rolls	Non-Relief	Cost per man month	Expenditures (in millions)	From Relief Rolls	Non-Relief	Cost per man month
<u>April 1935</u>					<u>April 1936</u>			
Works Progress Administration.....	\$36	320,000	1,8,500	\$97.69	\$184	2,162,332	123,846	\$73.13
Emergency Conservation Work.....	22	36,000	72,000	203.70	36	330,500	51,175	94.32
Public Works Administration.....	-	-	-	-	43	55,000	108,000	262.97
Resettlement Administration.....	16	53,000	60,000	141.99	28	35,477	14,200	330.67
Public Highways.....	8	5,000	20,000	320.00	17	75,000	84,000	106.92
Rivers and Harbors.....	1	6,000	1,000	142.86	11	34,000	20,000	203.70
Department of Agriculture (excluding Highways).....	7	44,000	16,000	116.67	6	51,500	12,400	93.90
Department of the Interior.....	11	2,000	22,000	458.33	6	41,000	15,000	107.14
Navy Department.....	7	16,000	8,000	291.67	12	16,000	27,000	279.07
Other Public Works.....	144	4,055,180	-	35.51	15	40,000	20,000	250.00
Federal Emergency Relief Administration.....	-	-	-	-	3	-	-	-
Total.....	292	4,537,180	247,500	55.54	361	3,170,809	510,621	98.06
<u>May 1935</u>					<u>May 1936</u>			
Works Progress Administration.....	-	333,000	52,200	101.24	173	2,294,856	122,309	71.57
Emergency Conservation Work.....	42	40,000	83,000	341.46	31	363,500	48,400	75.26
Public Works Administration.....	1	-	1,000	1,000.00	44	65,000	134,000	221.11
Resettlement Administration.....	18	70,000	82,000	118.42	27	35,698	47,300	345.31
Public Highways.....	11	6,000	21,000	407.41	15	90,000	111,000	74.63
Rivers and Harbors.....	2	12,000	2,000	142.86	13	34,000	20,000	240.74
Department of Agriculture (excluding Highways).....	5	40,000	15,000	90.90	5	56,600	11,900	72.99
Department of the Interior.....	12	2,000	22,000	500.00	6	41,000	15,000	107.14
Navy Department.....	10	20,000	10,000	333.33	3	15,000	20,000	85.71
Other Public Works.....	133	3,963,146	-	33.56	11	39,000	22,000	200.00
Federal Emergency Relief Administration.....	-	-	-	-	3	-	-	-
Total.....	273	4,486,146	288,200	57.18	331	3,028,654	551,909	92.44
<u>June 1935</u>					<u>June 1936 (Estimated)</u>			
Works Progress Administration.....	44	372,000	55,500	102.92	175	2,295,000	122,000	72.40
Emergency Conservation Work.....	23	40,000	83,000	186.99	32	363,500	48,400	77.69
Public Works Administration.....	1	-	4,000	250.00	75	72,000	150,000	337.84
Resettlement Administration.....	19	76,000	100,000	107.95	20	30,000	45,000	225.00
Public Highways.....	11	6,000	21,000	407.41	21	115,000	135,000	84.00
Rivers and Harbors.....	2	15,000	2,500	114.28	17	35,000	20,000	309.09
Department of Agriculture (excluding Highways).....	7	45,000	16,000	114.75	5	55,000	10,000	76.92
Department of the Interior.....	9	2,000	20,000	409.09	6	41,000	15,000	107.14
Navy Department.....	9	19,000	9,000	321.43	8	15,000	20,000	225.00
Other Public Works.....	205	3,701,009	-	54.84	12	35,000	23,000	206.90
Federal Emergency Relief Administration.....	-	-	-	-	1	-	-	-
Total.....	328	4,276,009	311,000	71.51	372	3,056,500	588,400	102.06

1 Percentage of relief cases chargeable to Federal funds only.

2 Does not include Rural Rehabilitation, loans or farm debt adjustment.

**STATEMENT OF EXPENDITURES FROM EMERGENCY FUNDS, DIRECT EMPLOYMENT
EMPLOYMENT, THEREFROM AND COST PER MAN MONTH FOR COMPARABLE MONTHS IN 1935 and 1936**

Organization	EMPLOYMENT				EMPLOYMENT			
	Expenditures (In Millions)	From Relief Bills	Non-Relief	Cost per man month	Expenditures (In millions)	From Relief Bills	Non-Relief	Cost per man month
July 1935								
Works Progress Administration.....	-	-	-	-	175	2,215,000	105,000	87.47
Emergency Conservation Work ¹	84.6	394,000	55,000	\$102.45	96	340,000	45,600	93.36
Public Works Administration ²	25	45,000	90,000	170.37	69	110,000	230,000	205.94
Resettlement Administration ³	1	-	9,900	101.01	26	75,000	24,000	262.62
Public Highways.....	29	80,000	91,000	169.99	26	150,000	185,000	77.38
Rivers and Harbors ⁴	10	6,000	21,000	370.37	16	30,000	8,000	380.00
Department of Agriculture (excluding Highways).....	2	17,000	3,000	100.00	4	45,000	8,000	79.47
Department of the Interior.....	6	41,000	15,000	107.14	12	44,400	29,700	176.21
Navy Department.....	11	6,000	20,000	423.08	10	6,000	16,000	154.34
Other Public Works.....	9	18,000	9,000	333.33	11	32,000	20,000	211.54
Federal Emergency Relief Administration ⁴	59	3,379,780	-	17.46	1	-	-	-
Total.....	196	3,966,780	313,900	45.57	386	3,077,400	676,300	102.72
August 1935								
Works Progress Administration.....	2	180,614	7,354	10.65	170	2,215,000	105,000	72.34
Emergency Conservation Work ¹	52	499,305	68,980	98.43	36	340,000	45,600	93.36
Public Works Administration ²	35	48,000	95,000	214.76	83	133,000	270,000	205.96
Resettlement Administration ³	2	1,695	16,200	111.76	27	75,000	24,000	272.72
Public Highways.....	30	70,000	84,000	194.81	31	140,000	160,000	103.33
Rivers and Harbors ⁴	11	8,000	29,000	297.30	14	30,000	20,000	220.00
Department of Agriculture (excluding Highways).....	2	18,600	2,500	94.79	4	40,000	7,000	85.11
Department of the Interior.....	10	50,000	18,000	147.06	16	45,000	24,000	231.68
Navy Department.....	10	6,000	20,000	384.61	9	4,000	16,000	450.00
Other Public Works.....	10	21,000	10,000	322.58	11	32,000	20,000	211.54
Federal Emergency Relief Administration ⁴	103	3,206,660	-	32.12	1	-	-	-
Total.....	267	4,069,874	351,034	60.39	402	3,084,000	691,600	106.47
September 1935								
Works Progress Administration.....	15	351,897	12,221	43.59	165	2,215,000	105,000	70.21
Emergency Conservation Work ¹	55	499,135	73,580	96.03	36	340,000	45,600	93.36
Public Works Administration ²	26	46,000	90,000	191.18	76	120,000	250,000	205.41
Resettlement Administration ³	3	1,476	16,400	167.82	23	75,000	24,000	292.32
Public Highways.....	24	55,000	60,000	208.70	35	120,000	140,000	97.22
Rivers and Harbors ⁴	13	12,000	30,000	309.52	13	30,000	20,000	260.00
Department of Agriculture (excluding Highways).....	3	40,600	4,200	66.96	3	28,000	2,000	100.00
Department of the Interior.....	8	45,000	17,000	129.03	11	42,000	22,000	171.66
Navy Department.....	8	10,000	24,000	235.29	9	2,000	16,000	500.00
Other Public Works.....	10	21,000	10,000	322.58	10	29,000	17,000	217.39
Federal Emergency Relief Administration ⁴	83	2,892,923	-	28.69	-	-	-	-
Total.....	248	3,955,101	337,401	57.78	381	3,031,000	611,600	103.74
September 1936 (Estimated)								
Works Progress Administration.....	15	351,897	12,221	43.59	165	2,215,000	105,000	70.21
Emergency Conservation Work ¹	55	499,135	73,580	96.03	36	340,000	45,600	93.36
Public Works Administration ²	26	46,000	90,000	191.18	76	120,000	250,000	205.41
Resettlement Administration ³	3	1,476	16,400	167.82	23	75,000	24,000	292.32
Public Highways.....	24	55,000	60,000	208.70	35	120,000	140,000	97.22
Rivers and Harbors ⁴	13	12,000	30,000	309.52	13	30,000	20,000	260.00
Department of Agriculture (excluding Highways).....	3	40,600	4,200	66.96	3	28,000	2,000	100.00
Department of the Interior.....	8	45,000	17,000	129.03	11	42,000	22,000	171.66
Navy Department.....	8	10,000	24,000	235.29	9	2,000	16,000	500.00
Other Public Works.....	10	21,000	10,000	322.58	10	29,000	17,000	217.39
Federal Emergency Relief Administration ⁴	83	2,892,923	-	28.69	-	-	-	-
Total.....	248	3,955,101	337,401	57.78	381	3,031,000	611,600	103.74

¹ Percentage of relief cases chargeable to Federal funds only.

² Does not include Rural Rehabilitation, loans or farm debt adjustment.

³ Includes authorization of \$300,000,000 from revolving fund for grants as well as loans contained in pending deficiency bill.

⁴ Average employment figures only available for July to December 1936.

**STATEMENT OF EXPENDITURES FROM EMERGENCY FUND DIRECT EMPLOYMENT
REGULATING THEREFROM AND COST PER MAN MONTH FOR COMPARABLE MONTHS IN 1935 and 1936**

Organization	Expenditures (In Millions)	EMPLOYMENT			Expenditures (In Millions)	EMPLOYMENT		
		From Relief Bills	Non-Relief	Cost per Man Month		From Relief Bills	Non-Relief	Cost per man month
October 1935								
Works Progress Administration.....	\$31	572,921	21,506	52.14				
Emergency Conservation Work ¹	61	513,070	73,880	103.94	160	2,290,000	110,000	\$66.67
Public Works Administration ²	27	44,000	85,000	209.30	36	340,000	45,600	93.36
Resettlement Administration ²⁻⁴	4	2,171	16,100	219.21	81	130,000	264,000	205.58
Public Highways.....	24	48,000	52,000	240.00	21	75,000	84,000	218.12
Rivers and Harbors ⁴	14	80,000	31,000	274.51	36	110,000	123,000	154.51
Department of Agriculture (excluding Highways).....	4	51,400	5,100	70.80	10	30,000	20,000	200.00
Department of the Interior.....	6	40,000	15,000	109.09	5	25,000	2,000	111.11
Navy Department.....	14	14,000	26,000	350.00	12	43,000	22,000	184.62
Other Public Works.....	11	26,000	10,000	305.55	5	1,000	8,000	555.56
Federal Emergency Relief Administration ¹	83	2,637,142	-	31.47	9	22,000	9,000	290.56
Total.....	272	3,969,004	335,506	64.82	373	3,066,000	627,600	100.99
November 1935								
Works Progress Administration.....	48	1,571,348	52,348	29.56				
Emergency Conservation Work ¹	50	493,864	65,571	89.50	165	2,530,000	120,000	62.26
Public Works Administration ²	25	39,000	83,000	204.92	36	340,000	45,600	93.36
Resettlement Administration ²⁻⁴	5	2,360	17,500	251.76	71	116,000	232,000	204.08
Public Highways.....	18	70,000	84,000	118.88	28	75,000	84,000	202.02
Rivers and Harbors ⁴	15	30,000	26,000	267.86	28	80,000	96,000	199.09
Department of Agriculture (excluding Highways).....	4	55,000	5,800	65.79	8	30,000	20,000	160.00
Department of the Interior.....	4	30,000	12,000	95.24	2	10,000	1,000	181.82
Navy Department.....	13	16,000	27,000	302.33	12	43,000	22,000	184.62
Other Public Works.....	11	27,000	14,000	266.29	4	700	7,500	487.80
Federal Emergency Relief Administration ¹	75	2,313,503	-	32.42	9	21,000	8,500	305.08
Total.....	268	4,648,075	387,219	53.22	375	3,245,700	576,600	92.68
December 1935								
Works Progress Administration.....	119	2,542,837	117,279	44.73				
Emergency Conservation Work ¹	47	467,485	60,231	89.06	36	340,000	45,600	93.36
Public Works Administration ²	33	35,000	69,000	317.31	80	130,000	261,000	204.61
Resettlement Administration ²⁻⁴	7	7,306	19,900	257.30	18	75,000	84,000	181.82
Public Highways.....	15	47,000	80,000	118.11	25	70,000	80,000	166.67
Rivers and Harbors ⁴	16	30,000	26,000	285.71	6	50,000	20,000	120.00
Department of Agriculture (excluding Highways).....	5	52,400	9,900	80.26	2	8,000	500	235.30
Department of the Interior.....	4	30,000	12,000	95.24	12	43,000	22,000	184.62
Navy Department.....	9	16,000	30,000	195.65	2	600	4,000	434.78
Other Public Works.....	16	33,000	23,000	285.71	8	15,000	8,000	347.83
Federal Emergency Relief Administration ¹	149	2,189,733	-	43.37	-	-	-	-
Total.....	320	4,390,761	447,310	66.14	369	3,461,600	595,100	90.51

¹ Percentage of relief cases chargeable to Federal funds only.

² Does not include Rural Rehabilitation, loans or farm debt adjustment.

³ Includes authorization of \$300,000,000 from revolving fund for grants as well as loans contained in pending deficiency bill.

⁴ Average employment figures only available for July to December 1936.

EMPLOYMENT ESTIMATES (IN BILLIONS OF DOLLARS)
 FROM EMPLOYMENT FROM THE MAIN TABLE ON THE EMPLOYMENT AND 1-20 EMPLOYMENT 31,
 1994, AND THE NUMBER OF PERSONS DIRECTLY EMPLOYED BY STATE
 DEPARTMENTS

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
Employment							
New Funds							
Works Progress Administration	100	130	150	150	140	175	845
Resettlement Administration	10	11	12	13	13	13	72
Emergency Conservation Work	6	30	31	31	30	30	188
Public Works Administration		5	10	15	20	20	70
Total new funds	116	176	203	209	203	238	1,175
Direct Employment							
New Funds							
Works Progress Administration	2,350,000	2,350,000	2,350,000	2,100,000	2,450,000	2,900,000	12,500,000
Resettlement Administration	50,000	50,000	50,000	50,000	50,000	50,000	300,000
Emergency Conservation Work	385,600	385,600	385,600	385,600	385,600	385,600	2,300,000
Public Works Administration		25,000	17,000	72,000	95,000	119,000	308,600
Total from new funds	2,785,600	2,805,600	2,832,600	2,907,600	3,181,600	3,454,600	15,409,100

ESTIMATED EXPENDITURES (IN MILLIONS OF DOLLARS)
FROM EMERGENCY FUNDS FOR EACH MONTH OF THE PERIOD JULY 1 TO DECEMBER 31,
1936, AND THE NUMBER OF PERSONS DIRECTLY EMPLOYED BY SUCH
EXPENDITURES

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
Expenditures							
Old Emergency funds							
Works Progress Administration	75	40	15	10	5	5	150
Resettlement Administration	16	16	11	8	7	5	63
Emergency Conservation Work	30	6	5	5	4		50
Reclamation	7	7	6	6	6	6	38
Rivers and Harbors	14	14	13	10	8	6	67
Public Highways	86	31	35	36	28	25	181
Public Works Administration	69	78	66	66	51	55	385
Other Public Works	30	33	27	23	21	18	152
Total old funds	269	225	178	164	130	120	1,086
Direct Employment							
							Average per month
Old Emergency funds							
Works Progress Administration	-	-	-	-	-	-	-
Resettlement Administration (1)	19,000	19,000	19,000	19,000	19,000	19,000	19,000
Emergency Conservation Work	-	-	-	-	-	-	-
Reclamation	12,100	12,300	12,300	12,300	11,500	11,500	12,100
Rivers and Harbors (2)	90,000	90,000	90,000	90,000	90,000	90,000	90,000
Public Highways	538,000	300,000	260,000	253,000	176,000	150,000	302,300
Public Works Administration	340,000	380,000	385,000	382,000	292,500	278,500	311,000
Other Public Works	195,100	188,000	198,000	172,000	115,700	101,100	156,000
Total from old funds	982,200	979,300	852,300	796,300	693,100	651,100	824,600
Expenditures							
New Funds							
Works Progress Administration							
Resettlement Administration							
Emergency Conservation Work							
Public Works Administration							
Total new funds							
Direct Employment							
New Funds							
Works Progress Administration							
Resettlement Administration							
Emergency Conservation Work							
Public Works Administration							
Total from new funds							

(1) Average monthly employment only available. Does not include rural rehabilitation, loans or farm debt adjustment cases.

(2) Average monthly employment only available.

SUMMARY OF THE EXPENDITURES, ACTUAL AND ESTIMATED, FROM DECEMBER 1935 AND APRIL TO DECEMBER 1936 FOR THE PERIOD APRIL TO DECEMBER 1935 AND APRIL TO DECEMBER 1936 FOR THE AGENCIES LISTED
(IN MILLIONS OF DOLLARS)

	War Relocation Authority	Emergency Conservation Work	Public Works Administration	National Labor Relations Board	Public Works Administration	War Relocation Authority	War Relocation Authority (including Japanese)	Department of the Interior	War Relocation Authority	Public Works Administration	War Relocation Authority	Total
1935												
April	-	36	22	-	16	8	1	7	11	7	144	229
May	-	39	12	1	18	11	2	5	12	12	153	250
June	-	16	23	1	19	11	2	7	9	9	109	250
July	-	16	23	1	20	10	2	6	11	9	99	250
August	-	20	23	2	20	11	2	10	10	10	109	250
September	15	23	26	3	24	13	3	8	8	10	83	250
October	15	23	27	4	24	14	4	6	14	11	83	250
November	15	23	25	5	18	15	4	4	13	11	75	250
December	15	23	25	7	15	14	5	4	9	14	60	250
Total	225	430	254	24	193	109	25	57	97	95	938	2,421
1936												
April	184	36	43	26	17	11	6	6	12	25	3	342
May	173	31	44	27	15	13	5	6	3	11	3	321
June	175	32	75	20	21	17	5	6	8	12	1	321
July	175	36	69	26	26	16	4	12	10	11	1	321
August	170	36	83	27	31	14	4	12	9	11	1	321
September	165	36	76	29	35	13	3	13	9	10	-	321
October	160	36	81	21	36	10	3	12	5	9	-	321
November	165	36	71	20	28	8	2	12	4	9	-	321
December	160	36	80	18	25	6	2	12	2	8	-	321
Total	1,547	315	622	234	234	108	34	90	62	94	9	2,421

SUMMARY OF COST PER MAN MONTH, ACTUAL AND ESTIMATED, OF EMPLOYMENT RESULTING FROM DECEMBER FUND FOR THE PERIOD APRIL TO DECEMBER 1935 AND APRIL TO DECEMBER 1936 FOR THE AGENCIES LISTED

	War Relocation Authority	Emergency Conservation Work	Public Works Administration	National Labor Relations Board	Public Works Administration	War Relocation Authority	War Relocation Authority (including Japanese)	Department of the Interior	War Relocation Authority	Public Works Administration	War Relocation Authority	Total
1935												
April	\$ 97.49	\$203.70	\$ 111.99	\$203.00	\$111.99	\$203.00	\$111.99	\$203.00	\$111.99	\$203.00	\$111.99	\$203.00
May	101.84	101.84	118.12	1,000.00	118.12	107.14	112.86	107.14	109.80	107.14	109.80	107.14
June	102.02	106.99	107.95	290.80	107.95	107.14	111.28	107.14	109.09	107.14	109.09	107.14
July	102.45	170.37	169.99	101.01	169.99	170.37	100.00	107.14	107.14	107.14	107.14	107.14
August	101.65	101.65	111.96	111.96	111.96	107.14	111.96	107.14	107.14	107.14	107.14	107.14
September	101.88	101.88	111.96	111.96	111.96	107.14	111.96	107.14	107.14	107.14	107.14	107.14
October	101.88	101.88	111.96	111.96	111.96	107.14	111.96	107.14	107.14	107.14	107.14	107.14
November	101.88	101.88	111.96	111.96	111.96	107.14	111.96	107.14	107.14	107.14	107.14	107.14
December	101.88	101.88	111.96	111.96	111.96	107.14	111.96	107.14	107.14	107.14	107.14	107.14
1936												
April	75.13	94.32	264.57	330.67	106.92	203.70	93.90	107.14	279.87	230.00	-	230.00
May	71.97	75.86	221.11	325.31	74.65	210.74	72.99	107.14	85.71	200.00	-	200.00
June	71.40	77.49	237.84	266.67	84.00	209.09	76.92	107.14	85.71	200.00	-	200.00
July	71.40	77.49	237.84	266.67	77.90	209.09	76.92	107.14	85.71	200.00	-	200.00
August	71.40	77.49	237.84	266.67	104.55	209.09	76.92	107.14	85.71	200.00	-	200.00
September	71.40	77.49	237.84	266.67	97.82	209.09	76.92	107.14	85.71	200.00	-	200.00
October	66.47	75.36	205.90	210.12	194.51	160.80	181.02	107.14	85.71	200.00	-	200.00
November	66.47	75.36	205.90	210.12	194.51	160.80	181.02	107.14	85.71	200.00	-	200.00
December	66.47	75.36	205.90	210.12	194.51	160.80	181.02	107.14	85.71	200.00	-	200.00

F.L./m

SUMMARY OF EMPLOYMENT, ACTUAL AND ESTIMATED, FROM EMERGENCY FUNDS FOR THE

PERIODS APRIL TO DECEMBER 1935 AND APRIL TO DECEMBER 1936

FOR THE SERVICES LISTED

	Works Program Administration		Emergency Conservation Work (3)		Public Works Administration (1)		Resettlement Administration (2)(3)		Public Highways		Rural and Forestry (5)	
	Salaries	Non-Salaries	Salaries	Non-Salaries	Salaries	Non-Salaries	Salaries	Non-Salaries	Salaries	Non-Salaries	Salaries	Non-Salaries
1935												
April	-	-	520,000	120,500	36,000	72,000	-	-	55,000	60,000	5,000	20,000
May	-	-	555,000	52,800	120,000	23,000	-	1,000	70,000	80,000	6,000	21,000
June	-	-	578,000	55,500	120,000	23,000	-	1,000	70,000	100,000	6,000	21,000
July	-	-	574,000	55,000	120,000	20,000	-	9,900	60,000	91,000	4,000	21,000
August	180,614	7,354	169,505	68,000	120,000	25,000	1,695	16,300	70,000	80,000	8,000	20,000
September	551,897	12,221	169,135	73,500	120,000	20,000	1,476	16,300	55,000	60,000	20,000	20,000
October	572,901	21,984	515,070	73,820	120,000	25,000	2,171	16,100	120,000	50,000	20,000	20,000
November	1,571,548	28,888	163,864	65,571	39,000	25,000	2,360	17,500	70,000	80,000	20,000	20,000
December	2,568,437	117,279	167,165	60,251	35,000	69,000	7,306	19,900	17,000	20,000	20,000	20,000
Total	5,199,617	210,708	3,851,899	555,382	375,000	750,000	15,008	101,000	569,000	695,000	125,000	205,000
1936												
April	2,162,352	123,066	330,500	51,175	55,000	108,000	35,177	12,200	75,000	84,000	54,000	20,000
May	2,204,856	122,369	363,500	120,100	65,000	134,000	35,698	17,500	90,000	111,000	54,000	20,000
June (estimated)	2,205,000	122,000	363,500	120,100	70,000	150,000	30,000	15,000	115,000	135,000	55,000	20,000
July	2,265,000	105,000	360,000	120,000	110,000	230,000	75,000	20,000	150,000	180,000	50,000	20,000
August	2,265,000	105,000	360,000	120,000	133,000	270,000	75,000	20,000	150,000	180,000	50,000	20,000
September	2,265,000	105,000	360,000	120,000	180,000	290,000	75,000	20,000	150,000	180,000	50,000	20,000
October	2,290,000	110,000	360,000	120,000	180,000	290,000	75,000	20,000	110,000	120,000	50,000	20,000
November	2,530,000	120,000	360,000	120,000	116,000	232,000	75,000	20,000	80,000	94,000	50,000	20,000
December	2,770,000	130,000	360,000	120,000	130,000	261,000	75,000	20,000	70,000	80,000	50,000	20,000
Total	21,107,188	1,043,155	3,097,500	1,215,750	931,000	1,899,000	551,175	205,500	950,000	1,115,000	285,000	120,000
	Department of Agriculture (excluding Highways)		Department of the Interior		Army Department		Other Public Works		Federal Emergency Relief Administration (4)		Total	
	Salaries	Non-Salaries	Salaries	Non-Salaries	Salaries	Non-Salaries	Salaries	Non-Salaries	Salaries	Non-Salaries	Salaries	Non-Salaries
1935												
April	4,000	1,000	120,000	16,000	2,000	22,000	15,000	8,000	4,095,180	-	4,537,180	25,700
May	12,000	2,000	120,000	15,000	2,000	22,000	20,000	10,000	3,965,116	-	4,195,116	20,000
June	15,000	2,000	120,000	16,000	2,000	20,000	19,000	9,000	5,701,009	-	5,726,009	20,000
July	18,000	3,000	120,000	15,000	6,000	20,000	18,000	9,000	5,579,780	-	5,604,780	51,700
August	18,000	2,500	50,000	18,000	6,000	20,000	21,000	10,000	3,306,648	-	3,327,648	20,000
September	12,000	4,800	120,000	17,000	10,000	24,000	21,000	10,000	2,098,993	-	2,119,993	20,000
October	51,000	5,100	120,000	15,000	11,000	26,000	26,000	10,000	2,637,662	-	2,694,662	20,000
November	55,000	5,800	30,000	18,000	16,000	27,000	27,000	14,000	2,515,509	-	2,556,509	20,000
December	52,160	9,900	30,000	12,000	16,000	30,000	35,000	23,000	1,129,755	-	1,187,755	20,000
Total	268,000	36,000	365,000	188,000	76,000	211,000	201,000	103,000	27,218,146	-	27,218,146	3,000,000
1936												
April	51,500	12,100	120,000	15,000	16,000	27,000	120,000	20,000	-	-	3,170,000	518,400
May	50,600	11,900	120,000	15,000	15,000	20,000	55,000	22,000	-	-	3,085,400	551,700
June (estimated)	55,000	10,000	120,000	15,000	15,000	20,000	55,000	25,000	-	-	3,095,000	580,000
July	16,000	6,000	120,000	23,700	6,000	16,000	32,000	20,000	-	-	3,077,000	670,000
August	16,000	7,000	120,000	24,000	4,000	16,000	32,000	20,000	-	-	3,084,000	691,000
September	28,000	2,000	120,000	22,000	2,000	16,000	29,000	17,000	-	-	3,031,000	643,000
October	25,000	2,000	120,000	22,000	1,000	8,000	22,000	9,000	-	-	3,050,000	627,000
November	10,000	1,000	120,000	22,000	700	7,500	21,000	8,500	-	-	3,045,700	570,000
December	8,000	500	120,000	22,000	600	4,000	15,000	8,000	-	-	3,041,600	595,100
Total	319,100	54,000	365,100	180,700	50,300	134,500	299,000	117,500	-	-	28,211,665	5,482,750

(1) Includes authorization for use of \$500,000,000 of revolving fund for grants as well as loans contained in pending deficiency bill.

(2) Does not include rural rehabilitation cases nor other farm families benefiting from loans, debt adjustments, etc.

(3) Average employment per month only available for period July to December 1935.

(4) The percentage of relief cases chargeable to Federal funds only.

Regraded Unclassified

**STATEMENT OF EXPENDITURES FROM EMERGENCY FUNDS, DIRECT EMPLOYMENT
RESULTING THEREFROM AND COST PER MAN MONTH FOR COMPARABLE MONTHS IN 1935 AND 1936**

Organization	EMPLOYMENT				EMPLOYMENT			
	Expenditures (in millions)	From Relief Funds	Non-Relief	Cost per man month	Expenditures (in millions)	From Relief Funds	Non-Relief	Cost per man month
April 1935								
Works Progress Administration.....	4	-	-	-	218	2,192,332	123,846	873.15
Emergency Conservation Work.....	836	320,000	148,500	897.69	36	330,500	32,173	94.32
Public Works Administration.....	22	36,000	72,000	203.70	43	53,000	108,000	250.97
Resettlement Administration.....	-	-	-	-	28	35,477	19,800	338.87
Public Highways.....	16	53,000	60,000	143.99	17	75,000	84,000	146.98
Rivers and Harbors.....	8	5,000	20,000	380.00	11	34,000	80,000	203.70
Department of Agriculture (excluding Highways).....	1	6,000	1,000	142.86	6	53,500	12,400	99.80
Department of the Interior.....	7	144,000	16,000	116.67	6	41,000	15,000	107.14
Navy Department.....	11	2,000	22,000	458.33	12	16,000	27,000	279.67
Other Public Works.....	7	16,000	8,000	291.67	15	40,000	20,000	260.00
Federal Emergency Relief Administration.....	144	4,055,180	-	35.51	3	-	-	-
Total.....	852	4,537,180	247,500	95.34	361	3,170,809	326,621	88.08
May 1935								
Works Progress Administration.....	-	-	-	-	173	2,294,856	122,309	71.97
Emergency Conservation Work.....	39	333,000	92,200	101.24	31	363,500	16,400	75.86
Public Works Administration.....	42	140,000	83,000	341.46	44	65,000	134,000	221.11
Resettlement Administration.....	1	-	1,000	1,000.00	27	35,698	47,300	323.31
Public Highways.....	18	70,000	82,000	118.42	15	90,000	111,000	74.43
Rivers and Harbors.....	11	6,000	21,000	147.41	13	34,000	20,000	210.74
Department of Agriculture (excluding Highways).....	2	12,000	2,000	142.86	5	96,600	11,900	72.99
Department of the Interior.....	5	10,000	15,000	90.90	6	41,000	15,000	107.14
Navy Department.....	12	2,000	22,000	500.00	3	15,000	20,000	85.71
Other Public Works.....	10	20,000	10,000	333.33	11	88,000	22,000	200.00
Federal Emergency Relief Administration.....	133	3,265,146	-	33.56	3	-	-	-
Total.....	223	4,486,146	228,200	57.18	331	3,088,454	252,909	92.44
June 1935								
Works Progress Administration.....	-	-	-	-	175	2,293,000	122,000	72.40
Emergency Conservation Work.....	44	372,000	55,500	102.92	32	363,500	16,400	77.69
Public Works Administration.....	23	40,000	83,000	166.99	75	72,000	150,000	377.81
Resettlement Administration.....	1	-	4,000	250.00	20	30,000	45,000	266.67
Public Highways.....	19	76,000	100,000	107.95	21	113,000	135,000	64.00
Rivers and Harbors.....	11	6,000	21,000	147.41	17	35,800	20,000	309.09
Department of Agriculture (excluding Highways).....	2	15,000	2,500	114.88	5	95,000	10,000	76.92
Department of the Interior.....	7	45,000	16,000	114.75	6	41,000	15,000	107.14
Navy Department.....	9	2,000	20,000	109.09	8	15,000	20,000	228.57
Other Public Works.....	9	19,000	9,000	321.43	12	35,000	25,000	206.90
Federal Emergency Relief Administration.....	203	3,701,000	-	31.84	1	-	-	-
Total.....	328	4,576,000	318,000	73.61	372	3,056,300	258,400	102.04
June 1936 (Estimated)								
Works Progress Administration.....	-	-	-	-	175	2,293,000	122,000	72.40
Emergency Conservation Work.....	44	372,000	55,500	102.92	32	363,500	16,400	77.69
Public Works Administration.....	23	40,000	83,000	166.99	75	72,000	150,000	377.81
Resettlement Administration.....	1	-	4,000	250.00	20	30,000	45,000	266.67
Public Highways.....	19	76,000	100,000	107.95	21	113,000	135,000	64.00
Rivers and Harbors.....	11	6,000	21,000	147.41	17	35,800	20,000	309.09
Department of Agriculture (excluding Highways).....	2	15,000	2,500	114.88	5	95,000	10,000	76.92
Department of the Interior.....	7	45,000	16,000	114.75	6	41,000	15,000	107.14
Navy Department.....	9	2,000	20,000	109.09	8	15,000	20,000	228.57
Other Public Works.....	9	19,000	9,000	321.43	12	35,000	25,000	206.90
Federal Emergency Relief Administration.....	203	3,701,000	-	31.84	1	-	-	-
Total.....	328	4,576,000	318,000	73.61	372	3,056,300	258,400	102.04

Percentage of relief cases chargeable to Federal funds only.

Does not include Rural Rehabilitation, loans or farm debt adjustment.

June 18, 1936.

**STATEMENT OF EXPENDITURES FROM EMERGENCY FUNDS, DIRECT EMPLOYMENT
RESULTING THEREFROM AND COST PER MAN MONTH FOR COMPARABLE MONTHS IN 1935 and 1936**

Organization	EMPLOYMENT				EMPLOYMENT			
	Expenditures (In millions)	From Relief Bills	Non-Relief	Cost per man month	Expenditures (In millions)	From Relief Bills	Non-Relief	Cost per man month
July 1935								
Works Progress Administration.....	-	-	-	-	175	2,215,000	105,000	87.47
Emergency Conservation Work ¹	8.6	394,000	55,000	\$108.45	36	50,000	45,600	95.36
Public Works Administration ²	23	45,000	90,000	170.57	69	110,000	230,000	205.94
Resettlement Administration ³	1	-	9,900	103.01	26	75,000	24,000	205.28
Public Highways.....	29	80,000	91,000	149.99	26	150,000	126,000	109.78
Rivers and Harbors ⁴	10	6,000	21,000	370.57	16	30,000	20,000	200.00
Department of Agriculture (excluding Highways).....	2	17,000	3,000	100.00	4	45,000	8,000	75.47
Department of the Interior.....	6	41,000	15,000	107.14	18	141,400	83,700	159.82
Navy Department.....	11	6,000	20,000	425.00	10	6,000	16,000	425.34
Other Public Works.....	9	18,000	9,000	333.33	11	32,000	20,000	211.94
Federal Emergency Relief Administration ⁴	22	3,379,780	-	17.46	1	-	-	-
Total.....	196	3,986,780	313,900	45.57	388	3,077,400	678,300	205.38
August 1935								
Works Progress Administration.....	2	180,614	7,554	10.65	170	2,215,000	105,000	78.34
Emergency Conservation Work ¹	52	499,305	68,980	98.43	36	50,000	45,600	95.36
Public Works Administration ²	35	48,000	95,000	244.76	83	133,000	270,000	205.94
Resettlement Administration ³	2	1,695	16,800	111.76	27	75,000	24,000	272.78
Public Highways.....	30	70,000	84,000	194.81	51	108,000	160,000	105.58
Rivers and Harbors ⁴	11	8,000	29,000	257.30	14	30,000	20,000	200.00
Department of Agriculture (excluding Highways).....	2	18,600	2,500	94.79	4	40,000	7,000	85.11
Department of the Interior.....	10	50,000	18,000	147.06	16	45,000	24,000	187.50
Navy Department.....	10	6,000	20,000	304.61	9	4,000	16,000	450.00
Other Public Works.....	10	21,000	10,000	322.58	11	32,000	20,000	211.94
Federal Emergency Relief Administration ⁴	105	3,206,660	-	32.12	1	-	-	-
Total.....	267	4,069,874	351,034	60.32	388	3,084,000	691,600	184.12
September 1935								
Works Progress Administration.....	15	331,897	12,221	43.99	165	2,215,000	105,000	70.21
Emergency Conservation Work ¹	55	499,135	73,580	96.03	36	50,000	45,600	95.36
Public Works Administration ²	26	46,000	90,000	191.18	74	120,000	230,000	205.94
Resettlement Administration ³	2	1,896	16,800	144.88	28	75,000	24,000	205.28
Public Highways.....	24	55,000	60,000	249.70	35	120,000	110,000	109.78
Rivers and Harbors ⁴	13	12,000	50,000	309.52	13	30,000	20,000	200.00
Department of Agriculture (excluding Highways).....	3	10,600	4,000	68.04	5	40,000	8,000	100.00
Department of the Interior.....	8	40,000	17,000	120.23	15	40,000	22,000	181.82
Navy Department.....	6	10,000	24,000	255.29	9	8,000	16,000	200.00
Other Public Works.....	10	21,000	10,000	322.58	10	29,000	17,000	217.39
Federal Emergency Relief Administration ⁴	83	2,872,773	-	28.69	-	-	-	-
Total.....	248	3,955,101	337,401	57.75	295	3,031,000	641,600	188.38
September 1936 (Estimated)								
Works Progress Administration.....	15	331,897	12,221	43.99	165	2,215,000	105,000	70.21
Emergency Conservation Work ¹	55	499,135	73,580	96.03	36	50,000	45,600	95.36
Public Works Administration ²	26	46,000	90,000	191.18	74	120,000	230,000	205.94
Resettlement Administration ³	2	1,896	16,800	144.88	28	75,000	24,000	205.28
Public Highways.....	24	55,000	60,000	249.70	35	120,000	110,000	109.78
Rivers and Harbors ⁴	13	12,000	50,000	309.52	13	30,000	20,000	200.00
Department of Agriculture (excluding Highways).....	3	10,600	4,000	68.04	5	40,000	8,000	100.00
Department of the Interior.....	8	40,000	17,000	120.23	15	40,000	22,000	181.82
Navy Department.....	6	10,000	24,000	255.29	9	8,000	16,000	200.00
Other Public Works.....	10	21,000	10,000	322.58	10	29,000	17,000	217.39
Federal Emergency Relief Administration ⁴	83	2,872,773	-	28.69	-	-	-	-
Total.....	248	3,955,101	337,401	57.75	295	3,031,000	641,600	188.38

¹ Percentage of relief cases chargeable to Federal funds only.

² Does not include Rural Rehabilitation, loans or farm debt adjustment.

³ Includes authorization of \$300,000,000 from revolving fund for grants as well as loans contained in pending deficiency bill.

⁴ Average employment figures only available for July to December 1936.

**STATEMENT OF EXPENDITURES FROM EMERGENCY FUND, DIRECT EMPLOYMENT
REVOLVING TREASURY AND COST PER MAN MONTH FOR COMPARABLE MONTHS IN 1935 and 1936**

Organization	Expenditures (in Millions)	EMPLOYMENT			Expenditures (in Millions)	EMPLOYMENT		
		From Relief Rolls	Non-Relief	Cost per Man Month		From Relief Rolls	Non-Relief	Cost per Man Month
October 1935								
Works Progress Administration.....	831	572,921	21,506	52.14	160	2,890,000	110,000	866.67
Emergency Conservation Work ¹	61	513,070	73,820	103.94	36	340,000	45,600	93.36
Public Works Administration ²	27	44,000	53,000	209.30	81	190,000	286,000	205.98
Resettlement Administration ²⁻⁴	4	2,171	16,100	219.21	21	75,000	24,000	212.12
Public Highways.....	24	48,000	52,000	260.00	36	110,000	123,000	134.31
Rivers and Harbors ⁴	14	20,000	31,000	274.51	10	30,000	20,000	300.00
Department of Agriculture (excluding Highways).....	4	51,400	5,100	70.80	3	25,000	8,000	111.11
Department of the Interior.....	6	40,000	15,000	109.09	12	43,000	22,000	186.36
Navy Department.....	14	14,000	26,000	350.00	5	1,000	8,000	999.96
Other Public Works.....	11	26,000	10,000	305.55	9	22,000	9,000	290.32
Federal Emergency Relief Administration ¹	25	2,438,262	-	31.47	-	-	-	-
Total.....	988	3,969,004	135,526	64.82	373	3,066,000	627,600	100.36
November 1935								
Works Progress Administration.....	48	1,571,348	32,348	29.96	165	2,530,000	120,000	62.86
Emergency Conservation Work ¹	50	493,864	65,371	89.38	36	340,000	45,600	93.36
Public Works Administration ²	25	39,000	83,000	204.92	71	116,000	232,000	204.02
Resettlement Administration ²⁻⁴	3	2,860	17,500	251.76	20	75,000	24,000	202.02
Public Highways.....	18	70,000	84,000	116.68	28	80,000	96,000	139.09
Rivers and Harbors ⁴	15	30,000	26,000	227.86	8	30,000	20,000	160.00
Department of Agriculture (excluding Highways).....	4	55,000	5,800	65.79	2	10,000	1,000	121.82
Department of the Interior.....	4	30,000	12,000	95.24	12	43,000	22,000	186.36
Navy Department.....	13	16,000	27,000	302.33	4	700	7,500	487.80
Other Public Works.....	11	27,000	14,000	254.29	9	21,000	8,500	305.08
Federal Emergency Relief Administration ¹	75	2,313,503	-	32.42	-	-	-	-
Total.....	268	4,648,075	387,219	53.22	366	3,265,700	576,600	92.21
December 1935								
Works Progress Administration.....	119	2,542,837	117,279	44.73	180	2,770,000	130,000	62.07
Emergency Conservation Work ¹	47	467,485	60,231	89.06	36	340,000	45,600	93.36
Public Works Administration ²	33	35,000	69,000	317.31	80	130,000	261,000	204.41
Resettlement Administration ²⁻⁴	7	7,306	19,900	257.30	18	75,000	24,000	182.22
Public Highways.....	15	47,000	80,000	118.11	25	70,000	80,000	166.67
Rivers and Harbors ⁴	16	80,000	26,000	285.71	6	30,000	29,000	180.00
Department of Agriculture (excluding Highways).....	5	52,400	9,900	80.26	2	8,000	500	235.30
Department of the Interior.....	4	30,000	12,000	95.24	12	43,000	22,000	186.36
Navy Department.....	9	16,000	30,000	195.65	2	600	4,000	434.78
Other Public Works.....	16	33,000	23,000	285.71	8	15,000	8,000	267.85
Federal Emergency Relief Administration ¹	40	1,189,738	-	42.27	-	-	-	-
Total.....	320	4,750,761	447,510	66.14	366	3,481,600	595,100	95.35

¹ Percentage of relief cases chargeable to Federal funds only.

² Does not include Rural Rehabilitation, loans or farm debt adjustment.

³ Includes authorization of \$300,000,000 from revolving fund for grants as well as loans contained in pending deficiency bill.

⁴ Average employment figures only available for July to December 1936.

June 18, 1936.

6-16-36

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SUMMARY OF EMPLOYMENT, ACTUAL AND ESTIMATED, FROM EMERGENCY FUNDS FOR THE
PERIOD APRIL TO DECEMBER 1935 AND APRIL TO DECEMBER 1936
FOR THE AMERICAN LIFTER

	Works Progress Administration		Emergency Conservation Work (3)		Public Works Administration (1)		Rearmament Administration (2)(3)		Public Highways		Rivers and Harbors (5)		
	Relief	Non-Relief	Relief	Non-Relief	Relief	Non-Relief	Relief	Non-Relief	Relief	Non-Relief	Relief	Non-Relief	
1935													1935
April	-	-	320,000	16,500	56,000	72,000	-	-	53,000	60,000	5,000	20,000	April
May	-	-	333,000	52,800	10,000	83,000	-	1,000	70,000	82,000	6,000	21,000	May
June	-	-	372,000	55,500	10,000	83,000	-	1,000	76,000	100,000	6,000	21,000	June
July	-	-	394,000	55,000	15,000	90,000	-	5,500	80,000	91,000	6,000	21,000	July
August	180,614	7,354	169,305	68,980	18,000	95,000	1,695	16,800	70,000	84,000	8,000	29,000	August
September	331,897	12,221	169,135	73,580	16,000	90,000	1,476	16,400	55,000	60,000	12,000	30,000	September
October	572,921	21,506	513,070	75,820	14,000	85,000	2,171	16,100	48,000	52,000	20,000	31,000	October
November	1,571,548	52,348	1,491,864	66,571	33,000	83,000	2,360	17,500	70,000	84,000	30,000	26,000	November
December	2,562,837	117,279	1,671,185	60,231	35,000	69,000	7,306	19,900	47,000	80,000	30,000	26,000	December
Total Man Months	5,199,617	210,708	3,451,899	553,382	373,000	750,000	15,008	101,000	569,000	683,000	123,000	225,000	
1936													1936
April	2,182,332	123,846	330,500	51,175	55,000	108,000	35,177	10,200	75,000	84,000	34,000	20,000	April
May	2,294,056	122,309	363,500	10,100	65,000	134,000	35,698	17,300	90,000	111,000	34,000	20,000	May
June (estimated)	2,295,000	122,000	363,500	10,100	72,000	150,000	30,000	16,000	115,000	135,000	35,000	20,000	June (estimated)
July	2,265,000	105,000	340,000	15,600	110,000	230,000	75,000	24,000	150,000	186,000	30,000	20,000	July
August	2,265,000	105,000	340,000	15,600	115,000	270,000	75,000	24,000	110,000	160,000	30,000	20,000	August
September	2,265,000	105,000	340,000	15,600	120,000	250,000	75,000	24,000	120,000	140,000	30,000	20,000	September
October	2,290,000	110,000	340,000	15,600	130,000	264,000	75,000	24,000	110,000	125,000	30,000	20,000	October
November	2,530,000	120,000	340,000	15,600	116,000	232,000	75,000	24,000	80,000	96,000	30,000	20,000	November
December	2,770,000	130,000	340,000	15,600	130,000	261,000	75,000	24,000	70,000	80,000	30,000	20,000	December
Total Man Months	21,607,188	1,043,135	3,097,500	121,575	931,000	1,899,000	551,175	285,500	950,000	1,115,000	203,000	180,000	
	Department of Agriculture (excluding Highways)		Department of the Interior		Navy Department		Other Public Works		Federal Emergency Relief Administration (4)		Total		
	Relief	Non-Relief	Relief	Non-Relief	Relief	Non-Relief	Relief	Non-Relief	Relief	Non-Relief	Relief	Non-Relief	
1935													1935
April	6,000	1,000	16,000	16,000	2,000	22,000	16,000	8,000	4,055,180	-	4,537,180	24,700	April
May	12,000	2,000	10,000	15,000	2,000	22,000	20,000	10,000	3,963,116	-	4,196,116	28,000	May
June	15,000	2,500	10,000	16,000	2,000	20,000	19,000	9,000	3,701,009	-	4,276,009	311,000	June
July	17,000	3,000	11,000	15,000	6,000	20,000	18,000	9,000	3,379,780	-	3,966,780	313,900	July
August	18,600	2,500	90,000	18,000	6,000	20,000	21,000	10,000	3,206,660	-	4,069,874	351,034	August
September	10,600	4,200	16,000	17,000	10,000	24,000	21,000	10,000	2,892,993	-	3,995,101	337,101	September
October	51,100	5,100	10,000	15,000	11,000	26,000	26,000	10,000	2,637,112	-	3,969,004	335,586	October
November	55,000	5,800	30,000	12,000	16,000	27,000	27,000	11,000	2,313,503	-	4,048,075	387,219	November
December	52,100	9,900	30,000	12,000	16,000	30,000	33,600	23,000	1,129,733	-	4,390,761	447,310	December
Total	268,000	36,000	365,000	136,000	74,000	211,000	201,000	103,000	27,216,116	-	28,316,930	3,049,090	
1936													1936
April	51,500	12,100	41,000	15,000	16,000	27,000	10,000	20,000	-	-	3,170,800	518,421	April
May	56,600	11,900	41,000	15,000	15,000	20,000	33,000	22,000	-	-	3,088,664	553,909	May
June (estimated)	55,000	10,000	41,000	15,000	15,000	20,000	35,000	23,000	-	-	3,056,500	588,160	June (estimated)
July	16,000	8,000	14,100	23,700	6,800	16,000	32,000	20,000	-	-	3,077,100	676,300	July
August	10,000	7,000	16,000	24,000	4,000	16,000	32,000	20,000	-	-	3,084,000	691,400	August
September	20,000	2,000	12,000	22,000	2,000	16,000	29,000	17,000	-	-	3,031,000	641,400	September
October	25,000	2,000	13,000	22,000	1,000	8,000	22,000	9,000	-	-	3,066,000	627,400	October
November	10,000	1,000	13,000	22,000	700	7,500	21,000	8,500	-	-	3,046,700	576,400	November
December	8,000	500	13,000	22,000	600	4,000	15,000	8,000	-	-	3,181,600	595,100	December
Total	319,100	54,800	363,100	180,700	60,900	134,500	229,000	147,900	-	-	28,863,665	5,461,730	

- (1) Includes authorization for use of \$300,000,000 of revolving fund for grants as well as loans contained in pending deficiency bill.
 (2) Does not include rural rehabilitation cases nor other farm families benefiting from loans, debt adjustments, etc.
 (3) Average employment per month only available for period July to December 1936.
 (4) The percentage of relief cases chargeable to Federal funds only.

June 12, 1936

June 18, 1936

HM, Jr. spoke to the President at 9:15 this morning and told him the following: "They have made some real progress on the tax bill. They have four different schedules and, as near as we can make out, all of them produce the necessary revenue. One schedule produces \$668,000,000 and the other, \$659,000,000." The President inquired, "Do you think they will get through this morning?" and HM, Jr. replied, "Yes; I believe they will sometime today, but then it will take about 48 hours to write the thing. One thing they did last night, which will please you, is that they raised the intercorporate dividend from $1\frac{1}{2}\%$ to $2\frac{1}{4}\%$." The President's comment was, "Oh! How amusing!"

The Secretary then said to the President, "I asked for a chance to see you with Harry Hopkins. I would like to amend that, if I may, and ask that you see Bell and me first. I have some very encouraging and startling figures to show you."

HM, Jr. then inquired of the President, "Do you remember my speaking to you about President Cleveland's son, of Baltimore? I would like to approach him for the position of General Counsel for Internal Revenue. They say he is a very able person and is married to Bishop Gaynor's daughter. We have not approached him yet." The President's reply was, "It sounds all right. Check it with Senator Radcliffe and Sumner Welles before you approach him."

Following his conversation with the President, HM, Jr. telephoned Sumner Welles and explained what he had in mind. Sumner Welles said, "I know that he is a very able person but I am not sure whether was is for President Roosevelt." However, he said he would check and have word for Mr. Morgenthau by noon.

HM, Jr. then called Senator Radcliffe and the following is a record of their conversation:

HM, Jr.: Hello.

Operator: Senator Radcliffe is not in his office and his Secretary isn't there either so I can't get any definite information, but I'll get some in a few minutes.

HM, Jr.: Well, he may be over in Baltimore.

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Operator: Well, that's what she thinks - he's gone over there to a Cabinet meeting, but she's not sure.

HM,Jr: Well, call him up at his Baltimore address - just ask Information.

Operator: All right.

HM,Jr: And what about Sumner Welles?

Operator: I haven't tried him yet - I'll get him right away.

HM,Jr: Ask Information for Senator Radcliffe.

* * *

Senator

Radcliffe: Oh, yes, yes, Mr. Secretary.

HM,Jr: I was talking to the President this morning about the possibility of asking Dick Cleveland whether he'd care to be General Counsel of Internal Revenue.

R: Yes.

HM,Jr.: And the President said before I even approached him I should call you up.

R: Yes.

HM,Jr.: And that's what I am doing.

R: Well, I - if he's available I'd be delighted to see him get it.

HM,Jr: Well I - I haven't approached him, but it's our number two legal job that we have in the Treasury -

R: Yes.

HM,Jr: And it's terrifically important.

R: Yes - well - well, Dick's a fine fellow and a competent man. And he stands very highly in Baltimore and I'd be delighted to see him do it, and I am sure Tydings would too.

HM,Jr: You would?

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R: Oh, yes, I'd be delighted to see him -

HM,Jr: Sumner Welles seemed to have some doubts.

R: Why?

HM,Jr: He wasn't sure whether he was for Roosevelt.

R: Well, I think he is - I haven't - I think so, of course he wouldn't do if that is true, but I - I can - I could check in - quietly in on that. Would you want to do it today?

HM,Jr: Yes, because I - if it's all right I'd like to send his name up today.

R: Yes - I haven't talked to Dick very much about it and I didn't know - I didn't think he was very active or aggressive, but I thought he would. But I really don't know, I have to - I have to ask him and I hadn't heard anything yet about that some little while. He's a very quiet fellow you know?

HM,Jr: Well -

R: He sticks to his law practice -

HM,Jr: Yes.

R: - and hasn't taken any very active part in anything -

HM,Jr: Well, Sumner Welles said he's got it all second hand, he said he hasn't got any of it first hand.

R: Well now I am going to Baltimore in a few minutes and I'll be back here by two o'clock.

HM,Jr.: Yes.

R: And - now I can call you up about two or half past two, is that too late?

HM,Jr: Well, no, I'll --

R: I think I can quietly check in on it in the meantime -

HM,Jr: I tell you, I go to Cabinet at five minutes of two.

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R: At five minutes of two?

HM,Jr.: Are you going to Baltimore now?

R: I've got to go to Baltimore in a few minutes --

HM,Jr: Could you call me from Baltimore before you leave Baltimore?

R: Yes I could do that and as a matter of fact -- he hasn't been in any way, he hasn't been connected with the Liberty League or active in any way, I know that, and - as far as the President is concerned.

HM,Jr: I get awfully good reports on him and I --

R: He's a fine fellow and I mean, even though he hasn't been very enthusiastic -

HM,Jr: Yes.

R: - it would be a very good thing to do for a lot of reasons.

HM,Jr: It would be?

R: Yes, I mean he stands well in the community and he has the respect of everyone there. And I - even though he hasn't been particularly active or friendly to the Administration I certainly haven't heard - don't know of anything to the contrary.

HM,Jr: But -

R: I think it would be just a pretty good strategic move anyhow.

HM,Jr: You do?

R: Yes, I really do. But I'll call you from Baltimore.

HM,Jr: Thank you.

R: All right.

HM,Jr.: Goodbye.

After HM,Jr. finished speaking to Senator Radcliffe, he put in a call for Oliphant, and the following is their conversation:

HM,Jr: Hello. Herman?

H.O. Yes.

HM,Jr: I talked to the President about Dick Cleveland. He was a little hesitant.

H.O. Yes.

HM,Jr: And so he said, 'Talk to Sumner Welles and Radcliffe.' I've done both.

H.O. Yes.

HM,Jr: Radcliffe is all for it.

H.O. Yes.

HM,Jr: Sumner Welles, he didn't know, but he's going to - whether he was for Roosevelt or not.

H.O. Well I can - he's a regular organization man, and -

HM,Jr: And he's going to call me back and let me know. They're all going to let me know by noon.

H.O.: Well Radcliffe, that's the Senator?

HM,Jr.: Yes.

H.O.: Yes.

HM,Jr: He's for him.

H.O.: Yes, well then when you find out I'm going to - hello?

HM,Jr: Yes.

H.O.: I am going to ask him - ask Griswold -

HM,Jr: To sound him out?

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H.O.: No, to be sure that we don't cross - that we're not crossing wires with Tydings.

HM,Jr: Oh -

H.O.: See?

HM,Jr: Well, Radcliffe said it would be O.K. with Tydings, but we can ask Tydings.

H.O.: Yes - direct?

HM,Jr: What?

H.O.: Direct?

HM,Jr: Why not?

H.O.: Well, I guess it's all right.

HM,Jr: Why not?

H.O.: Well, he's so close to Griswold, I know Griswold

HM,Jr: Well, why don't I ask Tydings, I'm asking these other fellows? If Tydings hears I called and asked Radcliffe why didn't I ask Tydings?

H.O.: If Tydings hears you asked Radcliffe -- you're right, you'd better ask Tydings --

HM,Jr: I'll call Tydings now.

H.O.: All right, fine.

The Secretary then spoke to Senator Tydings on the 'phone and the following is their conversation:

Senator
Tydings: Hello, Henry.

HM,Jr: How are you?

T: Fine.

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HM,Jr: I haven't talked to you in a long time.

T: That's all right. I haven't seen you, you've been busy I guess.

HM,Jr: Well, I'm trying to keep ahead of the Sheriff.

T: (Laughs)

HM,Jr: What I'm calling you up about, we're considering but have not yet talked to young Dick Cleveland the possibility of his taking the job of number one lawyer over in Internal Revenue.

T: Yes - it would be fine with me.

HM,Jr: It'd be O.K. with you?

T: Yes, but if you're really going to do that I - in order to get some credit for it I'd like to take the word to him myself.

HM,Jr: Yes - well the President asked me to check with you and Radcliffe and --

T: Well, that'll be all right, Henry. He's a good friend of ours.

HM,Jr: He is?

T: Go right ahead with it.

HM,Jr: Well, I haven't - I haven't heard yet, you see?

T: Yes.

HM,Jr: And Radcliffe is going to call me at noon and I haven't talked to Dick Cleveland yet.

T: Well, that's all right, I won't mind, I won't talk with him either until you have talked with Radcliffe.

HM,Jr: Well, it's all right with you?

T: Yes.

-8-

HM,Jr: Swell!

T: All right, old man, I'm glad you're taking care of him.

HM,Jr: And - if I do it - I mean, I haven't the slightest idea if he'll consider it but if he will then I'll call you right back.

T: All right.

HM,Jr: Thank you.

T: Thank you.

The above telephone conversations were held at about 10 o'clock. Senator Radcliffe called the Secretary early in the afternoon but did not talk to him because the Secretary was at Cabinet. As soon as HM,Jr. returned to his office, he called Senator Radcliffe and the following was their conversation:

HM,Jr: Hello
George
Radcliffe:Hello

HM,Jr: Morgenthau talking -

R: Yes - George Radcliffe -

HM,Jr: I just got back from Cabinet this minute.

R: Well, I sent you a message - but I didn't know -

HM,Jr: I got it.

R: - whether you could understand it very clearly.

HM,Jr: Yes

R: He's a - he has not been very active one way or the other. He's a very busy lawyer.

HM,Jr: Yes

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R: And I don't think he - frankly that he is probably a bit fully in accord with everything suggested - well, maybe no one has everything.

HM,Jr: Yes

R: But he has not been critical in any way at all and he hasn't been allied with any of the opposition -

HM,Jr: Yes

R: - whatever. But he's - I - as I told you today, he's a very good man, he has the complete confidence of the community there -

HM,Jr: Yes

R: And even - whether he's been active or not for the Administration he certainly hasn't been opposed to it and he's favorable to it. As a matter of fact I know he is for the Administration.

HM,Jr: Yes

R: Why, I think it would be a splendid thing to do if he's available. Of course he's a member of one of our biggest law firms -

HM,Jr: I know.

R: And he's a man of very moderate circumstances.

HM,Jr: Well, it so happened he was in town -

R: Yes

HM,Jr: - here in Washington now.

R: Yes

HM,Jr: And he's going to come over to the Treasury in about a half an hour.

R: Oh, that's fine.

HM,Jr: And I'll know tonight whether he'll take it or not, I think.

-10-

R: Well, now - if you could get him he'd be a splendid man. I - he's a - he's a - he's not a Marylander by birth of course, you know, but he's got the complete confidence of the people in Maryland there. Everybody thinks highly of him, he's very level headed --

HM,Jr: Fine

R: He's a very good lawyer - and he's a member, as I say, of one of the biggest firms there, in the city. And if he's available, if you could get him, I can't imagine, from the standpoint of - from the general standpoint of ability and integrity and also the general political effect - I can't imagine a better - a better appointment.

HM,Jr: Well - I think, unless he says he has to talk it over, but see, we could get a name - what's tomorrow, Friday?

R: Yes

HM,Jr: What would be the last day we could get the name up there?

R: Well, I could get it over there tomorrow and we could rush it through in a hurry, you know. I got one from the White House some time ago and called up Mac, I think about two o'clock in the afternoon and he had it over in a half an hour and we had it confirmed I think in about an hour after it was made.

HM,Jr: Well we oughtn't to wait until Saturday, oughtn't we?

R: No, I think it would be very desirable to get it over tomorrow because Saturday may be a pretty jumbled up day.

HM,Jr: O. K. Well, I'll tell him - I understand he's on his way over now.

R: Yes, well if you could get him I think it would be a splendid thing all the way around.

HM,Jr: Well, I'll tell him --

R: Taken from every angle that I can think of.

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HM,Jr: Fine

R: And I'd like to see him - I'd be delighted to see him in with the Administration because it would be exceedingly helpful to the Administration.

HM,Jr: Thank you.

R: And it might be opening up something for him later on, don't you see, of a different character?

HM,Jr: That's true.

R: Yes

HM,Jr: That's true.

R: Well, I'm very glad you called me up with regard to it and it's been a pleasure to check over the matter again.

HM,Jr: Thank you.

R: I'd just like to see him there.

HM,Jr: I'm going to do the best I can.

R: Well, that's fine.

HM,Jr: Thank you.

COPY

1936 JUN 19 AM 10 56

BY BALTIMORE MD 1030 AM JUN 19

HON HENRY MORGENTHAU JR:-

PERSONAL

CONVINCED I SHOULD NOT ACCEPT SUGGESTION BUT APPRECIATE
IT DEEPLY AS WELL AS SPIRIT IN WHICH IT WAS MADE WILL
WRITE LATER BUT KNOW YOU WISHED TO HAVE DEFINITE WORD
TODAY BEST WISHES.

RICHARD F CLEVELAND

1055A

COPY

THE AMBASSADOR
New York

June 22, 1936

My dear Mr. Secretary, -

As I telegraphed you after our conversation last Thursday, I do not feel that I could accept the position in the Treasury which you so kindly offered me. I indicated some of the practical obstacles arising from my personal condition and present professional situation. But if those were removed, candor equal to yours shows me that I do not have the enthusiasm which appears to be, in a position of that importance, a very proper ingredient of helpfulness. Of course I am thinking of your side of the bargain in saying this, and I say it with direct reference to your frank statement, for which I was very grateful.

I am proud to have been considered worthy of the post, and am very happy to have had the great pleasure of meeting you.

Respectfully,

/S/ Richard F. Cleveland

June 18, 1936

This week I started to work on the allotment of the new appropriation (yet to be passed) for relief for \$1,425,000,000.

In discussing it with the President, he said he wanted to set up an allotment board consisting of himself, Ickes, Hopkins, Bell and myself. Of course, this will be absolutely futile as we have been going through that kind of thing for the last three years and, as a result, the money is allocated to that individual who makes himself most disagreeable to the President rather than being allotted according to the needs of the people or the worthiness of the project. I do hope that the President will not repeat this sickening method of allotting money.

In another conversation which I had with him, a few days later when I was asking for an appointment to discuss it, he dropped the remark that he would like to have the \$1,425,000,000 last for the full fiscal year. I told him that on figures submitted to us by the various agencies the money would last nine months and I saw no reason why it could not be made to stretch the full twelve months. With the tremendous carry-over that we have from unexpended funds and if business continues to pick up and if the President will allot the money solely on the basis of taking care of the unemployed, I believe that the new money could be made to last for twelve months. Certainly he ought not to allot more than half of it at one time and watch the unemployed figures very, very carefully.

Last night I got the idea and called up Bell at 9:45 and told him that in addition to the figures which he was preparing for me on this subject I would like to be able to show the President just how far the money carried over would last all of the agencies that used relief money and how many men it would put to work based on their figures. I believe all of them had grossly exaggerated the number of men that they can put to work, with the exception of Hopkins, and if we take their figures there is no possible excuse for giving them any additional new money at this time.

What I would like to see the President do is, for the first three months, not to give one red cent to anybody but Hopkins and then watch developments very carefully.

June 19, 1936.

My dear Mr. President:

The United Press News Service carried the following news item yesterday:

"Already making plans to spend his new \$300,000,000 fund, Administrator Ickes said today that 'emergency' will be given applicants seeking grants only in distributing the money to finance construction work-relief projects.

"The grants, outright gifts to political subdivisions, will be 45 per cent of a project's cost. The applicant will supply the other 55 per cent from its own sources or by borrowing."

In view of our discussion of yesterday naturally this statement on the part of Secretary Ickes is very disturbing to me.

I would like to draw your attention to the following statement showing total emergency expenditures for relief of unemployment made during the months of July, August and September, 1935, and the total emergency expenditures for this purpose to be made for the same months of 1936, as estimated by the organizations involved, exclusive of any expenditures contemplated from the new relief appropriation of \$1,425,000,000:

	1935	1936
July	\$196,000,000	\$269,000,000
August	267,000,000	235,000,000
September	<u>248,000,000</u>	<u>178,000,000</u>
	\$711,000,000	\$682,000,000

If you allocate \$125,000,000 a month out of the \$1,425,000,000 to Mr. Hopkins for July, August and September, we would spend \$375,000,000 more in the first three months of the fiscal year 1937 than we did in the same three months of the fiscal year 1936, in spite of the fact that business conditions at this time are considerably improved over last year.

Under the existing circumstances and in line with your Relief Message to Congress of March 22, 1934, I would like to make two suggestions, (1) that no new money be allocated to any agency other than to the Public Works Administration, and (2) that, inasmuch as the \$200,000,000 limitation in the pending Relief Bill applies only to grants and not to loans, the Public Works Administration be restricted to making loans from the \$200,000,000 revolving fund, and that if any grants are to be made they be restricted to funds made available to the Public Works Administration through allocations heretofore made by you from old Emergency appropriations.

Faithfully yours,

Secretary of the Treasury.

The President,
The White House.

swB

OFFICE CORRESPONDENCE

DATE June 18, 1938.

TO CONFIDENTIAL FILES

SUBJECT: TELEPHONE CONVERSATION

FROM L. W. Knobe

WITH BANK OF ENGLAND

I called Mr. Bolton at 12:40 p. m. today. Referring to our telephone conversation of June 16, I mentioned that, after giving the matter a good deal of thought, I was more definitely than before of the opinion that the recent demand for sterling did not originate in New York but, as heretofore, had come from the Continent. Bolton agreed that yesterday's market operations seemed to bear me out.

I asked what he could tell me about conditions in France; he replied that the general idea seemed to be that there would be no devaluation and no restrictions and that the new Government seemed to place all its hopes on a return of confidence which, in turn, would bring money out of hoarding. I referred to the reports from Paris that the French Minister of Finance would today or tomorrow propose that the French francs 12,000,000,000 of Treasury bills now held by the Bank of France be converted into a back debt on which no interest would be paid, and that the present line of Treasury bills ^{to} be held by the Bank of France of 15,000,000,000 francs, ~~would~~ be increased to 20,000,000,000 or 25,000,000,000 francs, also that the Treasury issue sight bills carrying $2\frac{1}{2}\%$ interest and payable upon presentation in French banknotes. Bolton replied that he had heard similar reports and that he thought they were fairly reliable. The fact of the matter was that something had to be done. On the other hand a program of social reform was so urgent that it was conceivable that monetary reform would be put off for the moment.

Today's market was very quiet; the British Fund had done practically nothing.

LW:KMG

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June 18, 1936

Bewley met with the Secretary today at 11:30. The following is a stenographic report of their conversation:

HM, Jr.: This came in yesterday (Cable 313, dated June 15, from Ray Atherton, London) and this is a fine demonstration -- I tell you something; you cable it to your office; Chamberlain sends for Ray Atherton, and Ray Atherton cables it back here! I am going to tell you what I originally said and how the story has been relayed.

(H.M., Jr. reading:) "At the request of the Chancellor of the Exchequer I called at his office in the House of Commons this afternoon. In the course of a long conversation a memorandum of which goes forward by tomorrow's pouch, Chamberlain emphasized particularly that he was disturbed by indications received lest there develop in Washington a prejudice against British policy and methods which he would personally deeply deplore and to dissipate which he was quite prepared to do anything he could."

Bewley: I do not know the reason for that. That might be an old feeling of the past.

HM, Jr.: Frankly, that disturbed me. I thought we crossed that barrier. We have been getting along so well, I do not want four or five parties interfering.

(H.M., Jr. continued reading:) "The Chancellor then expressed appreciation of information reaching him through the kindness of Mr. Morgenthau regarding Cochran's views on the gold bloc situation which bore out his own information. He did not feel that the French were at present prepared to devalue due to internal political reasons; he thought that they would most likely put on restrictions which would be less satisfactory to both Great Britain and the United States. In any case whenever the French were prepared to devalue the British Treasury would be forced in the given circumstances to adhere to its established policy in not predetermining definitely at what point the pound would in this relation be held."

HM, Jr.: Of course, that is again contrary.

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Bewley: He said in his telegram to me that they must hedge, but subject to the two hedges which he mentioned that they anticipated the pound would be held pretty steady.

HM, Jr.: You told me on two different occasions, you said 15 to 20% and possibly up to 25%.

Bewley: What he is saying there is only a hedge to Atherton.

HM, Jr.: You and I understand each other. The theory I have been working on, and I take it you are too, is that if the French would devalue now within these percentages that always you reserve the right to hedge on your internal price levels.

Bewley: Subject to the internal price level and to unforeseen developments.

HM, Jr.: You and we and the French would make certain hedges, but the fact remains that our Government felt that we could encourage the French to devalue without either the pound or the dollar immediately making a move.

Bewley: That is my understanding.

HM, Jr.: That is mine. Of course, the State Department got disturbed when they saw this because it did not bear out what I told them. Your Ambassador called on the State Department and what he told them did not quite bear out what we had been talking about. The question is, was I reporting incorrectly or had I misunderstood you?

Bewley: What, exactly, did Atherton say?

(HM, Jr. read from paraphrase:) "In any case whenever the French were prepared to devalue the British Treasury would be forced in the given circumstances to adhere to its established policy in not determining definitely at what point the pound would be held in this relation."

Bewley: Of course, what that means is that they cannot promise.

-3-

HM, Jr.: You and I understand that. I could give reasonable assurances to the French that neither the dollar nor the pound would necessarily change and if they devalued 15 to 20% a tri-parte arrangement could be worked out.

Bewley: I think what I understood was not exactly "reasonable assurances" could be given to the French, but it would be understood that the sterling rate would not be changed. That is just the point. While the British, as I understand it, anticipate that the pound in fact would be held more or less steady I do not think that they would be willing to give any assurance to the French.

HM, Jr.: You gave them to me.

Bewley: Oh, yes!

HM, Jr.: And I, in turn, gave them to you. All I could say to Cochran was that the French will have to approach the English because of the position that the English have taken. I believe that if they do approach them they will find a sympathetic attitude.

Bewley: That is my understanding, provided their policy is reasonable -- 15 to 20%. The Chancellor is perfectly ready to discuss it with the French if they would take the first step. That was my understanding.

HM, Jr.: Yes. The move would have to come from the French, but I cannot talk for the British. I would not think of it.

(HM, Jr. continued reading:) "He particularly asked me to understand that this was no deviation from their past procedure. He then asked me if I thought my Government understood how the British equalization fund worked and proceeded to explain the situation in much the same terms as Ambassador Lindsay used in his conversation with the Undersecretary on May 27."

HM, Jr.: There was one statement which the Ambassador made. He said that I had said that we helped out the British stabilization fund when they were in trouble and I would be glad to do so again. That is the statement

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that Phillips wrote that the Ambassador made. I would not be so stupid to make such a statement. I had told them that we bought \$700,000 worth of gold and wanted to know where it came from.

Bewley: I have said that you had worked your policies in such a way not to interfere with the British stabilization fund.

(HM, Jr. continued reading:) "He seemed most anxious that Washington should fully understand the separation of functions between the British Treasury and the Bank of England which entailed than (that?) any day to day cooperation with America should be through the Federal Reserve, the Bank of England's opposite number."

HM, Jr.: That is something that is a British policy. You understand the position is different here. I would like to continue, if I am going to have any contacts, to have them through you to represent the British Treasury here. When it comes to the buying and selling of gold, I want to do it through the Federal Reserve.

Bewley: They would like, on any question of policy, that they should do it through me, but on a question of the actual working of the fund that I am not sufficiently close to it.

HM, Jr.: Bolton and Knoke talk to each other several times a week and that contact has been established during the last two or three weeks. Knoke is in the Federal Reserve in New York and Bolton is with the Bank of England.

Bewley: That entirely meets the Chancellor's point on that.

HM, Jr.: That is most pleasing to me. We have established that relationship.

(HM, Jr. continued reading:) "I took advantage of this general opportunity to discuss at length all the issues involved in the recent interchanges regarding commercial policy, the result of which I feel may be constructive."

HM, Jr: This is off the record. The point is this. Just as soon as the diplomats get into this -- this is a perfect example of how they can get things mixed up -- they do not contribute anything. I am very, very careful to confine myself to monetary matters. I am not interested in trade relations nor am I interested in naval agreements. If you could, convey that to your people. I am only interested in the exchange matter. The rest is up to the State Department. I constantly keep them informed of what I am doing. If they are going to begin to go around to Ray Atherton to talk back and forth, we will find ourselves bogged down.

Bewley: There are two points which I think are made. The first is that the Chancellor apparently thought you had some suspicions of his policy. That really is a misconception on the part of the Chancellor.

HM, Jr: On our part here, since you came with the letter and your oral statement from the Chancellor it cleared up everything.

Bewley: The other point is of greater importance. If the Chancellor -- it may be that he wants to stretch the possibility of something happening if the French do go off gold. If there is any misunderstanding I think it is essential to clear up that point.

HM, Jr: Our position has not changed. If the Chancellor's has, the sooner I know it, the better. You have seen all these articles by Caillaux?

Bewley: Yes; I have.

HM, Jr: Well, that covers the ground.

Lochhead: The important thing is what exactly would the English do if France goes off gold.

HM, Jr: The whole question in my mind, and I was going on the thought if the French would move, I felt that there would not be a war of devaluation. That is the most important thing for England.

Bewley: If the Chancellor would say definitely that

-8-

if the French devalued the English would not take any action that would result in a war of devaluation, that is really the point.

HM, Jr: I have been thinking. If someone would say that, it would be very good. If he could, of course say that, I should think that would force the French. The thing that gets me is -- going on the assumption -- prior to this thing coming -- three months or six months from now, how could we know what your internal situation might be. Those balances just come once in a lifetime and this is the time for the French to move.

Bewley: I can't answer in any way.

HM, Jr: I am just generalizing. I have seen this situation before where they tried to get to the point where the three currencies would be at a point where they could do something. Then something like this happens. Auriol is making his speech tonight. We will see what happens.

oOo-oOo

After Bewley had departed, Lochhead said, "Bewley stuck to his guns. He has not changed any."

PARAPHRASE OF TELEGRAM

From: American Embassy, London.
 To: Secretary of State.
 Dated: June 15, 1936.
 No.: 313.

PERSONAL AND CONFIDENTIAL FOR SECRETARY OF STATE.

The Chancellor of the Exchequer requested me to call on him at his office in the House of Commons and I did so this afternoon. A memorandum of our conversation is going forward by tomorrow's pouch. In the course of this conversation Chamberlain emphasized particularly that he was disturbed by indications that had come to him lest there develop in Washington a prejudice against British policy and methods, a development which he would personally deeply deplore and which he was quite prepared to do anything he could to dissipate. He then expressed appreciation of information reaching him through the kindness of Mr. Morgenthau regarding Cochran's views on the gold bloc situation which bore out the information that he had. Due to internal political reasons he did not feel that the French were at present prepared to devalue; they would, he thought, most likely put on restrictions which would be less satisfactory both to the United States and to Great Britain. "In any case whenever the French were prepared to devalue the British Treasury would be forced in the given circumstances to adhere to its established policy in not determining

-1-

determining definitely at what point the pound would be held in this relation. This, he particularly asked me to understand, was no deviation from their procedure in the past. He then asked me if I thought my Government understood how the British equalization fund worked and proceeded to explain the situation in much the same terms as Ambassador Lindsay used on May 27 in his conversation with the Under Secretary. He seemed most anxious that Washington should fully understand the separation of functions between the Bank of England and the British Treasury, a separation which entailed that any day to day cooperation with America should be with the Bank of England's "opposite number" namely, the Federal Reserve.

This general opportunity was taken advantage of by me to discuss at length all the issues involved in the recent interchanges regarding commercial policy. I feel that the result may be construed. I by no means reflected the satisfaction he obviously expected with the British memorandum contained in my 281 of May 28, 11 p.m. He was waiting, he assured me, to give to your reply his every consideration.

ATHERTON

MED

GERMANY

BERLIN

Dated June 18, 1936

Received 3:35 p.m.

Secretary of State,

Washington

190, June 18, 6 p.m.

My 181, June 15, 1 p.m.

Lengthy article in BOERSEN ZEITUNG April 16, obviously officially inspired states that value of German exports to the United States in goods named in Treasury decision was 20,000,000 marks last year; that without means of adjusting currency difference with competitors having 40% devalued currency no export in articles listed could be made by Germany to the United States since goods could not be handled on account of price; that a falling off in exports will diminish German foreign exchange balance and reduce the possibility of German imports from the United States by the same amount. It questions whether the creation of new trade hindrances of such far reaching significance as the Treasury decision were necessary at present and whether the German Government can accept without anything further such a serious injury to German economic interests.

It asserts that the export promotion methods

employed

MED - 2 - #190, June 18, 6 p.m., from Berlin

employed in connection with German exports to the United States were only for adjusting currency differences which has been strictly controlled in each individual case.

It concludes that if on the German side the necessarily resulting measures with reference to the Treasury decision have not yet been resolved it may be assumed that the German Government is proceeding from the thought that before these measures become effective it may still be able to attain a clearing up of the affair.

MAYER

CSB



DEPARTMENT OF STATE
WASHINGTON

In reply refer to
EA 611.635/150

June 23, 1936

The Secretary of State presents his compliments to the Honorable the Secretary of the Treasury, and with reference to previous correspondence regarding T.D. 48360, encloses for his information a copy of a telegram from the American Embassy at Berlin (No. 190, June 18, 1936, 6 p.m.) reporting an article in the **BOERSEN ZEITUNG** regarding the Treasury decision.

Enclosure:
From Berlin No. 190,
June 18, 1936.

June 19, 1936.

MEMORANDUM

TO: Secretary Morgenthau

FROM: Mr. Gaston

I gave the message about the Red Cross to Steve Early. He was disappointed. He thought it should be explained to you that Grayson has been ill at his home for six weeks with an attack of shingles and he called Steve on the phone merely because Steve was a friend whom he thought he could trust to do something about it. I told Steve they could send over anyone they wished from the Red Cross offices to discuss the matter with you, or the Admiral could call you on the phone. Steve made much of the point that the circulation of your letter would be a direct attack on the two securities whose purchase you disapproved and which they have already bought. I told him I couldn't see that at all as your letter made it plain that you objected to the purchase of any securities for the trust fund except direct obligations of the United States Government.





DEPARTMENT OF STATE
WASHINGTON

In reply refer to
FE 893.00/13557

June 19, 1936

CONFIDENTIAL

The Secretary of State presents his compliments to the Honorable the Secretary of the Treasury and, with reference to previous correspondence in regard to the financial situation in China, encloses, for the confidential information of the Secretary of the Treasury, a copy of that portion of a telegram under date June 17, 6 p. m., from the American Consul General at Canton, which relates to the subject under reference.

Enclosure:

From Consulate General
Canton, June 17, 6 p. m.,
in part.

*Rec'd
6/12*

Excerpt from a telegram under date
June 19, 8 P.M., from the American
Consul General at Canton.

Reports from bankers and other reliable sources indicate that much progress has been made in Hanking's negotiations for adoption here of national currency and that this may be expected in the very near future.

(Received in code)

COPY FOR MR LOONHEAD

HONGKONG

JUNE 18 1936

SPAGENT

WASHN DC

REFERRING OUR PREVIOUS MESSAGES ON CANTON MONEY SITUATION
STOP PROBLEM NOW CONFRONTING SOUTHWEST GROUP IS EITHER TO
ACCEPT BANK OF CHINA CREDITS AS INITIATED BY T V SOONG OR
TO SEEK IMMEDIATE OUTLET FOR THEIR SILVER ELSEWHERE STOP
DECISION EXPECTED SHORTLY

CAMPBELL



In reply refer to
EA 611.623/776

DEPARTMENT OF STATE
WASHINGTON

June 19, 1936

My dear Mr. Secretary:

With reference to previous correspondence regarding T.D. 48360, I enclose a copy, partly paraphrased, of a telegram from Berlin (Embassy's 187, June 17, 6 p.m.) reporting that Mr. Brinkman, Director of the Reichsbank, and Ministerial-Rat Ludwig Imhoff are expected to sail for New York from Hamburg June 29 on an official mission and bear, it is understood on the basis of unofficial information, full powers to discuss the decision and to conclude such arrangement as they may be able to reach with the competent American authorities with a view to maintaining trade between the two countries.

The previous telegrams which the Embassy mentions, Nos. 176 and 179, have already been transmitted to you in paraphrase.

Sincerely yours,

Enclosure:
No. 187 from Berlin,
June 17, 1936.

The Honorable

Henry Morgenthau, Jr.,
Secretary of the Treasury.

Show to H. O. (17)
also Customs (125)
[Signature]

[Signature: Cordell Hull]

Department of State



EA

ENCLOSURE

TO

Letter drafted

ADDRESSED TO

TREASURY

PARTIAL PARAPHRASE OF TELEGRAM RECEIVED

FROM: American Embassy, Berlin, Germany

DATE: June 17, 1936, 6 p.m.

NO.: 187

CONFIDENTIAL.

Reichsbank director Brinkman one of Schacht's principal advisers in Ministry of Economics, and Ministerial-Rat Ludwig Imhoff, specialist in American affairs in that Ministry, expect to sail for New York on the steamer BREITEN from Hamburg, June 28th, accompanied by stenographer Dietermann. In requesting letters to American customs officers for Brinkman and Imhoff today, Foreign Office communication stated they were going on official business of the German Ministry of Economics for the purpose of trade negotiations.

It is understood on the basis of unofficial information that Mr. Brinkmann bears full powers to discuss the recent Treasury decision (T.D. 48380) and to conclude such arrangement as they may be able to reach with the competent American authorities with a view to maintaining trade between the two countries. I refer to my telegrams No. 176 of June 13, noon, and No. 179 of June 15, 2 p.m., on this subject.

WATER.

June 19, 1936.

Dear Mr. Phillips:

I refer to Assistant Secretary Gibbons' conversation with you on June 17, in regard to the Treasury's countervailing duty order of June 4 relating to certain German products.

You requested the views of the Treasury respecting certain matters concerning the order which are substantially covered by informal representations presented to the Treasury by Dr. Meyer, First Secretary of the German Embassy, on June 16, pursuant to cabled instructions from his Government. These representations may be summarized as follows:

The German Government hopes that it may be found possible to postpone the effective date of the order for some time after July 12. If it is not practicable to postpone the effective date of the order in its entirety, it is hoped that the order will not be applied to goods involved in contracts entered into in good faith prior to the date of the order.

The German Government desires to formulate some procedure for aiding exports from Germany which will permit German-American trade to maintain at least its present volume, but which will not result in the imposition of penalties or additional duties on German products imported into the United States. With this object in view, the German Government inquires whether the Treasury Department would have any objection to conversations between its officials and experts to be sent from Berlin to acquire an understanding of the views of the Treasury Department concerning the pertinent customs laws under its jurisdiction.

After the most careful consideration, the Treasury Department has decided that there is no authority of law or precedent which would justify any postponement of the effective date of the countervailing duty order, in whole or in part, beyond July 12.

The Treasury Department will be glad to give detailed consideration to any representations of the German Government received through appropriate channels in regard to any matter within its jurisdiction. However, I do not think it would be appropriate or productive of any result to consider or discuss any representation involving the legal, economic or equitable propriety of the application of Section 303 of the Tariff Act of 1930 (countervailing duties) to the procedures considered in the opinion of the Attorney General addressed to the Secretary of the Treasury on June 2, 1935. The decision of the Treasury Department that the law requires imposition of countervailing duties was reached with the utmost deliberation and the mandatory provisions of the law admit of no discretion on the part of the Secretary of the Treasury in the matter of its enforcement.

Should any factual situation involving aid to German exports to the United States arise, the Treasury Department will as a matter of course give prompt consideration to such situation and would, if practicable, express an opinion as to the application of the countervailing duty law or any other law to the same. The Treasury Department, of course, could not consent to express any opinion concerning hypothetical situations by which it would be bound. It would, accordingly, be reluctant to express any views whatsoever concerning such situations.

Frankly, I do not see what good purpose could be served by conversations between Treasury officials and special emissaries of the German Government, as proposed by Dr. Meyer. Dr. Meyer stated that he had obtained a copy of the opinion of the Attorney General relating to the countervailing duty order. This opinion fairly expresses the views held by the Treasury Department as to the objects and requirements of our countervailing duty law, and the opinions of the courts in decided cases are readily available. In any conversation with German experts concerning countervailing duties, officials of the Treasury could do little more than restate the opinion of the Attorney General and cite the unequivocal opinions of the courts.

Dr. Meyer, after presenting the representations of his Government, suggested, among other things, the propriety of a discussion between the German emissaries and representatives of the Treasury Department of the particular means by which the German authorities and German exporters might facilitate the work of the Treasury Department in fixing at the earliest possible moment the total amount of duties payable on particular shipments. Such a discussion, if fruitful of results, might be of advantage to both German exporters and American importers.

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Please advise me whether it will be convenient for your Department to communicate to the German Embassy the views of the Treasury Department expressed in this letter, or whether you believe it would be more appropriate in the circumstances for the Treasury Department to communicate them directly. Dr. Meyer has expressed the hope that whatever can be done might be accomplished before July 12, and with this in mind asked whether it would be possible to have the views of the Treasury Department in regard to the representations above set forth not later than the forenoon of Saturday, June 20, so that he could give such information to Berlin the same day.

This letter will serve to reply to your note addressed to Assistant Secretary Taylor on June 12, which he handed to me upon his departure for his vacation.

Sincerely yours,

(Signed) Josephine Roche,
Assistant Secretary.

Honorable William Phillips,
Under Secretary of State,
Washington, D. C.

June 19, 1938

Hester came in and told the Secretary that if we really want to get the Treasury agency bill through, the President would have to talk to Senator Robinson. HM, Jr. told Hester that the bill was not sufficiently important to ask the President, at this time, to speak to Senator Robinson. The Secretary did, however, call Gibbons, Senator Gerry, Senator Ashurst and Biffle, who is Secretary to the Majority, and copies of the various conversations are attached.

Thursday
June 18, 1936
10:50 a. m.

Herman
Oliphant: - Bill was reached on the call of the calendar this morning.

HMjr: Yes

O: Three Democrats asked for it to go over -

HMjr: Yes

O: - and he's trying to find out who they were. He had already spoken to Byrd and Wheeler and they are both working for the Bill. And he asked that you call up Robinson immediately and ask him to move that the Bill be considered and if that's done it'll pass.

HMjr: Ask Robinson?

O: Yes - to call Robinson. The Bill was passed over on the calendar call on the request of three Senators, - and if Robinson will make a motion that the Bill be considered --

HMjr: Just a minute - make motion -

O: - that the Bill be considered.

HMjr: - Bill - be -

O: - considered - Hester says it will pass.

HMjr: Yes, what's the Bill number?

O: I would have to get that, it's the Treasury Reorganization Bill.

HMjr: He'll ask me what the number is.

O: I'll get it and call you right back?

HMjr: Send it on a slip because I've got another call coming in, will you please?

O: I've got it right here on a slip.

(End of conversation.)

Thursday
June 18, 1936
11:00 a. m.

Operator: - called just now but he says he'll call back in about five or ten minutes.

HMjr: He will?

Operator: Yes, sir

HMjr: Hello

Leslie L. Biffle: Hello, Biffle

HMjr: Hello,

B: Oh, good morning, Mr. Secretary

HMjr: How are you?

B: Just fine, thank you.

HMjr: Biffle, they called me up - Hester did, on this Treasury Agency Service Bill -

B: Yes, sir

HMjr: H.R. 12556 - and they - he said that he felt that if I could speak to Senator Robinson and ask him to move that the Bill be considered that it would pass -

B: - Senator Robinson is almost through with his statement he is making, he's trying to get a unanimous consent agreement --

HMjr: What's that, sir?

B: Senator Robinson will be through with a statement that he is now making in the Senate - he is asking that further consideration be given to the calendar.

HMjr: He will?

B: And he'll call you back in just a moment or two, Mr. Secretary.

HMjr: Well, I didn't want to bother him if you could give him that message.

B: Well, I'll be glad to deliver it to him in just a moment. - And report back to you in just a short time.

HMjr: Will you call me back?

B: I'll be glad to.

HMjr: Because I know how busy he is. I'm here and I'd love to talk to him but if I could save him that why I'd - that's that.

B: I'll be glad to give him your message and report back to you very soon.

HMjr: Thank you.

B: You're quite welcome.

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Thursday
June 18, 1936
11:08 a. m.

Operator: Go ahead.

HMjr: Hello

Leslie L.

Biffle: Mr. Secretary

HMjr: Talking

B: Biffle - I have talked with Senator Robinson -
and there were three or four Senators who objected
to your Bill.

HMjr: Yes

B: Now Senator Robinson has promised to go and talk to
those Senators and see if he cannot persuade them to
withdraw their objections.

HMjr: Well, can Hester help any or can anybody help?

B: Well, I don't see how you --

HMjr: You know the only person objecting to this thing is
Hearst?

B: Yes, that's what we understand and -

HMjr: And as a matter of fact --

B: Copeland objected this morning.

HMjr: Well, there you are. As a matter of fact I talked to
U. Edgar Hoover about this a couple of months ago and
he said he thought it was a swell idea.

B: Well, I think probably Senator Robinson will be able
to get them to withdraw their objections. He's going
to make every effort to do so anyway.

HMjr: Well, you can tell the Senator I talked to J. Edgar
Hoover about this thing and he said he thought it was
a swell idea and a move in the right direction.

B: Fine, I'll give that message to him right away.

HMjr: I talked to him, he said, 'That's exactly as it is,
Mr. Secretary, it's a move in the right direction
and I am for it'.

B: Oh that's fine, I'll give that message to him right
away.

HMjr: Will you?
B: Be glad to.
HMjr: Thank you.
B: Goodbye.

Thursday
June 18, 1936
12:17 p. m.

HMjr: Hello -

Operator: Mr. Gibbons -

HMjr: Please

Operator: Go ahead.
S. B.

Gibbons: Hello

HMjr: Hello, Steve

G: That fellow is on the floor talking on the Shipping Bill - and they sent word to me that he was sorry he couldn't get off the charge of it and he felt he would be there all day. That shipping you know, is being considered today. Now the -

HMjr: Yes

G: - our Bill is likely to come up today?

HMjr: Yes

G: - Do you want me to stay here and - ?

HMjr: Well, you'd better go up there, get in a car and go up there.

G: Well then I won't go to New York.

HMjr: Well, why not? You're going at two o'clock, aren't you?

G: Yes

HMjr: Well, if you'd go up there now you can see him.

G: I see. I'll go up and talk to him on --

HMjr: I mean, you can go to New York at two o'clock and if you go up there - you'll be up there in fifteen minutes and if you send your card in he'll come out.

G: Yes - all right, I'll do that.

HMjr: Take Cy Upham with you, he knows his way around.

G: Yes

HMjr: No, you go to New York on the two o'clock, but if you'd go up there right away now and take Cy with

you - he can get him off the floor.

G: Yes - yes, I - oh, I can get him off the floor. He'll come out and I'll go up there right away and do that.

HMjr: Yes, I consider it important enough.

G: Yes, O. K.

HMjr: No, but - no I don't want to keep you from the fight.

G: No, well that's - that's all right.

HMjr: No - just go up there now and see him.

G: But this Bill is likely to come up after the Shipping Bill is through I guess.

HMjr: Well, it might come up any time.

G: Yes - all right, I'll report back to you. Then I'll take Cy with me.

HMjr: Pardon me?

G: I'll take Cy with me.

HMjr: Take Cy with you.

G: Yes

HMjr: O. K., thank you.

Friday
June 19, 1936
9:10 a. m.

131

HMjr: Hello

Operator: Mr. Biffle hasn't reached the office yet.

HMjr: Well when he gets there I want to talk to him.

Operator: All right.

HMjr: Thank you. - Try Gibbons if he's in.

Operator: All right.

(Pause)

Operator:

HMjr: Yes

Operator: All right - Operator -

HMjr: Senator Gerry at his home or at his office.

Operator: Senator Gerry?

HMjr: - of Rhode Island

Operator: All right.

HMjr: Hello

Operator: Mr. Gibbons

HMjr: Hello - hello?

S. B.

Gibbons: Hello

HMjr: Steve -

G: Yes

HMjr: Good morning

G: Good morning

HMjr: I've got Hester here in the office - do I understand you and he touch on this Treasury Agency Bill?

G: Yes - I thought that the only thing to do was to have the Chief call up Robinson.

HMjr: Oh well, I can't ask --

G: What?

HMjr: I can't ask the President to call up on a thing like this.

G: Well, could I talk to McIntyre about it?

HMjr: No - no I don't want to - I don't want to -

G: Yes

HMjr: No, I don't want to --

G: See, if - if they can do it without this fellow Copeland - Copeland --

HMjr: Well, I don't mind - I don't - if you want to call McIntyre I have no objection but --

G: That's what I mean.

HMjr: But don't suggest that--

G: Oh no, no no - that's my thought.

HMjr: I mean, don't suggest - don't bring the President into this.

G: Yes, yes

HMjr: Because I don't want - it isn't important enough.

G: I see.

HMjr: But I mean if McIntyre wants to call up Robinson, fine.

G: Yes

HMjr: But I wouldn't suggest to McIntyre that the President do it.

G: Yes

HMjr: And I don't think McIntyre will.

G: Yes

HMjr: But he might, I doubt it.

G: Well of course, you see Copeland's sore because they wouldn't appoint that fellow up there in the he wanted.

HMjr: I don't - listen, don't - don't - I - don't
call McIntyre. It'll only make him mad.

G: I see.

HMjr: I wouldn't do it.

G: All right. Well then I don't see that you can do
a thing. You can't do anything with Copeland.

HMjr: You can't?

G: No, he - did you see in this morning's paper where
he has tied up the judges?

HMjr: Well, Hester says - he says Copeland's all right.

G: Oh, Copeland is all right?

HMjr: That's what Hester says.

G: Well, who is holding it up then?

HMjr: He doesn't know. Well, I am going to call up Gerry.
Now, I'd leave the White House out of this.

G: Oh -

HMjr: Yes

G: Well, I talked to Copeland yesterday as he was coming -
see, he came out of the - off the floor to the door.
He had the floor and he said he couldn't come outside.

HMjr: Yes

G: And I told him you were very much interested in it.
And he said, 'How is J. Edgar?' And I said well he
told you that he was a hundred per cent for it. He
said, 'Oh, he did?' He said, 'Well, all right, Steve,
I'll see what I can do'. But, then he said he got
the Coast Guard, he helped us out on the Coast Guard.
Then he said that Ashurst was talking on the Bill at
the time and of course he had to run along. Now --

HMjr: Well, let - what I'll do is let's let Hester tell
us who he wants us to call. Now right now he has
asked me to call Gerry which I'll do.

G: Yes

HMjr: But let's leave the White House out of this.

G: All right.

HMjr: O. K.

G: Well, do you want me to call - ? I'll see Hester in a little while.

HMjr: That's the best way.

G: O. K.

Friday
June 19, 1936
9:18 a. m.

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HMjr: Senator Gerry -
Senator
Gerry: That's right, sir.
HMjr: How are you?
G: Very well, thanks.
HMjr: Senator, I'm calling you up on a matter which I understand you have been kind enough to take considerable interest in. And that's this Treasury Agency Bill which you have charge of.
G: Yes, I've got charge of it - the trouble is there is an awful lot of opposition to that Bill.
HMjr: Yes
G: And I wrote to your man in charge of it and I told him -
HMjr: Yes
G: - that I - we'd do what we could. I spoke to Joe Robinson about it, but it's a damned difficult thing to get through because you've practically got to get unanimous consent.
HMjr: I see.
G: Now the first thing that - was that I had to talk to Senator Byrd, he's all right.
HMjr: Yes
G: I was informed he was against it but apparently he's all straightened out and of course he's the head on that reorganization committee, but he had no objections to it at all.
HMjr: Fine
G: Well, I couldn't get that out that day anyway because we didn't reach it on the calendar.
HMjr: Right
G: Then yesterday we reached it on the calendar and it went over.
HMjr: Yes

G: Because Copeland objected. Well - his bill is up. I think it was Copeland, I went down and asked him - it's very hard for me to hear where I am - then I went and talked to Joe Robinson.

HMjr: Yes

G: And-, I said the only thing that I thought we could do was to wait -

HMjr: Yes

G: - until the bill came up.

HMjr: Yes

G: - until we got a chance and moved - and he agreed with me - because you've got to move -

HMjr: I see.

G: - or you've got to wait until somebody - isn't there.

HMjr: Yes

G: Now there are a lot of people that you don't know about who are going to object to that bill and I don't know who they are.

HMjr: I see. Well, Hes -

G: Now that's the situation. I don't know anything we can do, but if we get it - but of course you can't move to take it up when they adjourn because the - Copeland's bill is up and he'll just object.

HMjr: Well, Hester tells me you've been perfectly grand about it and I appreciate it very much, all the trouble you have been to.

G: Not at all. But I mean it - it's been sort of a hopeless mess because - so I don't know what to do.

HMjr: Well, would you - have you any suggestions who I might call? I'll call anybody if you think it will help.

G: No, because the trouble is you don't know who objects.

HMjr: Should I call Copeland?

G: No, I wouldn't call Copeland, I'd leave him alone. I'll talk to Copeland myself and see what objection - the main thing is he's got his own bill up.

HMjr: Well - you got to do what?

G: He's got his own bill up.

HMjr: Oh yes - well -

G: He said he doesn't like having a bill come up that'll upset his bill. And I wouldn't either, if I had a bill on the floor -

HMjr: No

G: I wouldn't let another bill put me off.

HMjr: Well, when will Copeland get through with his bill?

G: I don't think he'll get through with it at all, it's got the air filled.

HMjr: Well, Senator, if you don't - what I'd love to do would be just to leave it in your hands and count on you.

G: Well, the only thing I can do is, I've had a talk with Joe about it -

HMjr: Yes

G: And the only thing I can do is, if I get a chance -

HMjr: Yes

G: - is to ask unanimous consent.

HMjr: Yes

G: Which I don't believe I'll get.

HMjr: Yes

G: Then the question of moving is pretty nearly impossible in this stage. Now that's the situation. Now you never can tell what will happen- I may get a break. If I do I'll bring it up.

HMjr: Well, it's not - it's one of those things that we'd like to have and if we can we'd appreciate it very much.

G: Well, there you are. Now that's the situation and I'm being perfectly frank. I don't know what else you can do because if you start and rush it and get somebody mad -

HMjr: Well, the -

G: That's just gone - (Laughs)

HMjr: No, well --

G: Of course then they'll sit in the Senate and wait for you.

HMjr: Right - now, as a matter - as far as the Department of Justice and J. Edgar Hoover are concerned, I talked to Hoover a couple of months ago when I met him at dinner at Homer Cummings'.

G: Yes

HMjr: And I talked to him and told him we were doing this. And he said, 'Fine', and he said, 'That's a move in the right direction'.

G: Well, of course he had that Hearst article in yesterday - it didn't do you any good. I think that stirred up a lot of opposition.

HMjr: Yes, but that - I greatly question whether that came from J. Edgar Hoover.

G: Oh, I doubt that - I don't believe that.

HMjr: Because he told me a couple of months ago that he thought that this was a move in the right direction.

G: Well, as a matter of fact I don't think that but I think that they had the whole thing mixed up anyway.

HMjr: Yes, I think so.

G: But, the whole question about it is that that article set up a lot of opposition. There isn't any question in my mind about that.

HMjr: Well, I would expect it would.

G: Yes

HMjr: Well, sir, if you can do it we'll appreciate it and if you can't we know you've done your best anyway.

G: Well, that's - thank you. Well, there's nothing I can do more than what we are going now. I mean I've got the thing in and we've had it out but -

HMjr: Fine

G: I couldn't - I didn't have a chance moving to
take it up -

HMjr: Right

G: - on the calendar; I was beaten.

HMjr: Well, thanks, Senator

G: Not at all

HMjr: Thank you.

G: Goodbye.

Friday
June 19, 1936
9:23 a. m.

140

HMjr: Hello

Leslie L.

Biffle: Good morning, Mr. Secretary

HMjr: How are you?

B: Just fine, thank you.

HMjr: Biffle, my little pet bill -

B: Yes

HMjr: Treasury Agency -

B: Yes, sir

HMjr: Do you think there'll be a chance to flip that through today?

B: Yes, better than yesterday.

HMjr: Swell!

B: I talked to the Senator after we adjourned last night and he had discussed it with some of those that had objected to the bill -

HMjr: Swell

B: I think we made some progress on it.

HMjr: Fine - I talked to Senator Gerry this morning and he said he's going to do the best he can.

B: I see, well that's fine, Mr. Secretary.

HMjr: And I understand from Hester that Copeland will not object. He's had the thing explained to him.

B: I see, well that's fine. And if he withdraws his objection I think it will help a lot.

HMjr: Well, Biffle, if there is anybody that you want me to call during the day, will you let me know?

B: I'll be more than glad to, yes sir, and I may contact you a little later, Mr. Secretary.

HMjr: Fine - I'm going to kind of count on you now.

B: Oh well, I'll do my very best.
HMjr: Well then the bill will go through.
B: Oh - (Laughs) Thank you, sir.
HMjr: All right.
B: Goodbye.

Friday
June 19, 1936
9:28 a. m.

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Operator: Operator

HMjr: Senator Ashurst

Operator: All right. Mr. Oliphant's calling, can he talk to you in the meantime?

HMjr: No, no - Ashurst

Operator: All right.

9:50 a. m.

HMjr: Hello

Operator: Senator Ashurst

HMjr: Hello

Senator
Ashurst: Hello

HMjr: Hello, Senator

A: Hello, Mr. Secretary, how are you?

HMjr: I've just been reading that very fine speech of yours you made yesterday.

A: Well, I thought it was - but - I thought it was just as I should make that speech, because they had done you a great injustice.

HMjr: I had to look - use the dictionary to understand some of the words you used.

A: (Laughs)

HMjr: There are some two dollar words there.

A: Well, they're the kind that make them buy dictionaries, huh?

HMjr: Yes, sir - Well, I certainly appreciate your support and I understand all this session you've been particularly helpful and I want to tell you how much I appreciate it.

A: Well, you've done good work/and you're entitled to help and support - here

HMjr: Well, that --

A: And I'm sorry that you can't get more of it. You should have more of it.

HMjr: Now the only thing we need now to get through and then - is this Treasury Agency Bill.

A: Yes, that's the one that Senator Gerry reported.

HMjr: Yes - I talked to the Senator Gerry this morning and he said he's going to do all he can. But he needs - he needs help.

A: Yes, he's got to have help. We've got to get Joe Robinson and Barkley and Tom Connally all to work on that.

HMjr: Now, anything you can do I'd appreciate it very much.

A: I'll do my very best and I wish you the best of luck. How is Mrs. Morgenthau and all the family?

HMjr: They're fine and how is your good wife?

A: Well, Mrs. Ashurst you know has got neuritis and she's had a very bad attack for over three months.

HMjr: Oh, I'm sorry. Is she here or is she --

A: No, she's here but she can't go out much.

HMjr: Well, it's this --

A: a good deal of the time.

HMjr: It's this Washington climate I suppose.

A: Oh, she goes out once in a while but not - it's very painful to get around. It's in the shoulder and arm.

HMjr: Oh, I'm sorry.

A: Well, good luck. I'll do my best today and see what can be done.

HMjr: Thank you very much.

A: Goodbye.

HMjr: Goodbye.

Friday

June 19, 1936

(Between 12:10 and 12:55
p. m.)

HMjr: - Jesse, after you have caught your breath will you let me know what you are going to do about borrowing this money for Commodity Credit from the banks?

Jesse Jones: Yes

HMjr: Because I'm particularly interested. And whenever - and - I'll be here either Monday or Tuesday and then if we get - I'm here tomorrow.

J: Well, Henry I've got - I'm in agreement with the - I'm working with - here's what I'm trying, I'm working with the National City and the Chase and the Guaranty Trust.

HMjr: Yes

J: And I told them that if I didn't get the right sort of arrangement with them that we would offer them publicly.

HMjr: Yes

J: - like we do our other stuff.

HMjr: Right

J: Now they've agreed and they were nice about it, on the rate of interest at being one half of one per cent.

HMjr: Very good.

J: And that's all they asked but they said they don't - and I told them that we didn't want it any cheaper but we didn't want to pay any more.

HMjr: That's right.

J: And it's just a question now - and our lawyers have submitted to them all of our, you know, papers

HMjr: Yes

J: And it's just a question I think of their lawyers approving it and I told them that I wanted to do it right away, that I had promised Congress to do this when they increased the capital.

-2-

HMjr: Yes

J: And I told them the reason I wanted the capital increased was to be able to do just this thing and that I had gone to sleep on it -

HMjr: Yes

J: And the pressure was on me, you see?

HMjr: Right

J: I didn't want to tell them the other.

HMjr: Yes - no, no

J: And I think we'll - I think I'll - or I'll probably call up there this afternoon, Henry.

HMjr: All right.

J: And if I get anything I'll call you back.

HMjr: Right - and Jesse, if you're around tomorrow, and I don't want to push you, I mean if you want to - please - we're sitting here waiting for Cong - give me a ring tomorrow.

J: I'll do that, I'll be here tomorrow.

HMjr: Give me a ring.

J: I'll do that.

HMjr: And one other thing, you spoke to me before you went away that you were going to release some more cotton, did you do that from the pool?

J: No, I did not.

HMjr: You did not?

J: The only - of course Oscar has been selling some cotton from the pool -

HMjr: Yes

J: But we left that million bales right where it was.

HMjr: You mean you released the million?

J: Yes, I think it's ^a/million and thirty thousand.

HMjr: Yes

J: The dead-line, you know, is on June the first.

HMjr: And you didn't extend that?

J: And I think Oscar, though, is going to get rid of his.

HMjr: It looks that way.

J: So it - which is just the same thing, you know.

HMjr: That's right.

J: Well, thank you, Henry.

HMjr: Goodbye.

FEDERAL RESERVE BANK
OF NEW YORK

OFFICE CORRESPONDENCE

DATE June 19, 1944

CONFIDENTIAL FILE

SUBJECT: TELEPHONE CONVERSATION

FROM L. W. Knake

WITH BANK OF ENGLAND

Mr. Bolton called me at 10:48 today. He was sending us a cable, he said, advising us that they were setting aside for us 190,000 ounces of gold valued at about \$8,500,000. He had received a call from one of the banks this morning which wanted a bid on the gold. He had bid them our price and they had accepted it. As far as he could judge the transaction was pure dehoarding on the part of people who preferred to get out of gold and into dollars. I would be better able to understand this operation, he continued, if I were a little nearer to the Continent. In Paris, they seem^{ed} to have forgotten how to think. In consequence they were doing all sorts of silly things. People were acting as in a state of "funk". All kinds of rumors were spread all over the market. Compulsory registration of capital moved out of the country was among them. Under the circumstances some people in France, he figured, thought they would be better off if they turned gold in London into balances in New York. I mentioned that I took it then that he assumed that the above gold operation was for French account. Bolton replied that that was his feeling although he did not of course know who the ultimate customer of the London bank was.

I asked what the latest news was from Paris. Bolton replied that the French Minister of Finance had just started his speech in the Chamber; the only thing he had so far said was that there would be no devaluation. The Fund had not operated in francs today. I thanked Bolton for his thoughtfulness in telephoning me before his cable reached us.

LWK:KMC

Regraded Unclassified

144A

PARAPHRASE OF TELEGRAM RECEIVED

FROM: American Embassy, Paris

DATE: June 18, 1936, noon

NO.: 511 FROM COCHRAN.

I refer to telegram No. 185 of June 17, 11 a.m. from the Department, and to my telegram of June 18, 11 a.m., No. 510.

I just had a telephone call from Baumgarten, who told me that Monnick's trip is being kept secret here. Baumgarten urged that no official welcome be arranged or presence to the press be given out in the United States, as his trip should be considered a purely private affair.

STRAUS.

EA:LWW

June 19, 1936

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Mr. Morgenthau called on Mr. Bull at the State Department this morning. In addition to Mr. Bull and Mr. Morgenthau, Mr. Livsey of the State Department and Lochhead of the Treasury Department were present.

Mr. Morgenthau stated that he was calling on Mr. Bull with reference to the cable received from Ray Atherton of the London Embassy, covering his conversation with the British Chancellor of the Exchequer. Mr.

Morgenthau explained that he was disturbed regarding Atherton's cable because it seemed in variance with the understand he had arrived at through Dewley, the British Financial Attache. He explained that he had requested Mr. Dewley to call and discuss the cable, which he did yesterday. In the talks which Mr. Morgenthau had with Mr. Dewley, Mr. Dewley had clearly given him to understand that the British Chancellor of the Exchequer had stated that if the French were willing to devalue up to a reasonable amount, anywhere, say, from 15 to 25%, that the British would not look upon this as a cause for a depreciation war of currencies. That the British would not alter their sterling rate in relation to the dollar or gold if the French devalued, but would only alter this rate if forced to because of a marked change in commodity price levels and trade conditions in England or other unforeseen results. Mr. Atherton's report of his conversation with the Chancellor did not bear this out but simply mentioned that the British were retaining their right to change their currency at any time. Mr. Morgenthau explained fully his conversation with Dewley yesterday, in which Dewley stated that, of course, he did not know what the Chancellor had said to Atherton but he could confirm what the Chancellor had instructed him to tell the Secretary of the Treasury, which he had already done and he could not see the basis for the statements Atherton had made. Dewley was going to endeavor to clear up this

situation with the Chancellor and the Secretary of the Treasury promised to keep Secretary Hull informed of any developments.

Secretary Hull stated that it was possible that Atherton had misunderstood the Chancellor of the Exchequer but on the other hand they considered Atherton one of their best reporters.

At this time Secretary Hull took occasion to point out that if Great Britain had not been too complacent two years ago with conditions in their own country and had been willing to work with other countries in a mutual cooperative spirit to iron out world-wide difficulties, the world would not have found itself in the condition it is now in. He pointed out that Great Britain had lost a great deal of prestige in Europe due to the Italian situation and, rather than gaining ground in the last two years, they had lost ground and in addition were faced with an enormous additional budget for armament expenses.

He drew attention to the fact that Germany continues by means of currency clearing systems and other devices to dump goods on the rest of the world. This would not do any good for the rest of the world nor in the long run would it do any good for Germany who was simply exporting all her capital. He stressed the point that all nations should make every effort to eliminate such artificial barriers to trade expansion and work together to provide a proper base of trade revival.

Mr. Hull then mentioned in a rather casual manner that the question of the war debt settlements of foreign nations was now in the hands of the Treasury Department. He said that the State Department would be glad to cooperate in any manner in their power by supplying any information or advice they had available but that, of course, Mr. Morgenthau understood the President had clearly transferred that responsibility to the Treasury Department.

Mr. Morgenthau reminded Mr. Hull that this was the first time that Mr. Hull had mentioned this fact and Mr. Hull replied by stating that when Mr. McAdoo was in the Treasury the war debt settlements were transferred to the Treasury Department and, under certain statutes, the duty and responsibility evolved on the Treasury Department.

Mr. Morgenthau advised Mr. Hull that at the present time he had in his desk a letter from Ambassador Struss in Paris addressed to the President, in which he reminded the President that he had been given authority two years ago by the President to settle the French war debt. Mr. Morgenthau had been requested to answer this letter but stated that he frankly did not know what he should say. In the circumstances, he requested that the State Department cooperate in forming a reply and Mr. Hull stated that they would be very glad to do so. Mr. Morgenthau then arranged that he would forward Ambassador Struss' letter to Mr. Liversy, through Mr. Lochness, without any comment in order to get the reaction and recommendation of the State Department regarding an answer to it.

June 19, 1938

I spoke to Cochran this morning and all he said was that there is a cable coming, in which he advises me that Auriol will not talk until late today. The banks are closed on Saturday, due to some holiday, and, therefore, Auriol does not want to make his statement until after the markets are closed. This sounds rather sinister to me.

THE WHITE HOUSE
WASHINGTON

Mr. J. Edgar Hoover

Dear Mr. Hoover:

I am very pleased to hear from you and to learn that you are still interested in the work of the White House. I am sure that you will find the information I am sending you very interesting and useful. I am sure that you will find the information I am sending you very interesting and useful.

Very truly yours,
Franklin D. Roosevelt

Enclosed for you are two copies of the report of the Committee on the Administration of the Government, which was published in 1937.

Saturday, June 20, 1936

Mr. Monnick called on me today at 5:15 and presented a letter from Auriol. He also has letters from Premier Blum, Herriot and Claudel.

Before leaving France he had a long confidential talk with Blum and Auriol. He was sent here to try to negotiate an agreement between France and the United States, first on currencies and, second, to include Great Britain. He hoped that he had not come too late, meaning that the United States and Great Britain had come to an agreement between themselves. I assured him that we had not and I was insisting that France must be included in this agreement. He kept stressing the confidential nature of his mission; that it was extremely dangerous if it became known that he was here communicating while the head of his Government was making speeches every day denying that they would consider devaluation.

I told him that we considered the situation was ripe for devaluation for France provided that the amount was moderate. I also told him that I knew that Great Britain would be glad to have France devalue under similar conditions, but that Great Britain insisted that France must approach her direct. He told me that he had taken this question up with Waley, but I doubt whether he had the authority to take it up formally.

He said, Supposing we got such an agreement between the three countries. What would happen if Germany should devalue more than the French have and started to dump their goods? I told him that if the three countries came to an agreement, they would be so powerful that I doubted if any one country could fight them single-handed in a war of devaluation. He showed me that he was very much worried about the French situation.

He is also worried about the Polish situation. He said that the Poles came to them two months ago and asked them whether the French would not devalue. He said the Polish situation economically is steadily getting worse.

He stressed the fact that he not only represented Blum but he also represented Herriot and whatever party he stands for.

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Monnick brought up the question of the war debts and said that if President Roosevelt is re-elected that they most likely would send Herriot over here to negotiate the war debts.

He also dropped hints that Blum broadened the base of his cabinet and took Herriot in.

I got the feeling that the French situation is really desperate. Monnick told me, in so many words, that if the economic deterioration of France and Poland continued that the chances of war were imminent.

He got terribly excited when I told him that the barrier which was keeping the three countries from getting together was Great Britain. He got quite "French" and swung his arms around and said, The British wish to keep the pound independent and refuse to come to any agreement.

I told him I was dining with the President tonight and would present his letters, but that this was a very bad time to see the President and that he must not be disappointed if the President could not see him right away. I furthermore told him that the President left this matter of stabilization of currencies entirely in my hands; also, that we separated in this country the monetary matters from diplomatic and foreign matters. He said he was authorized to deal with me alone and that he did not intend to present his credentials at the State Department.

STENOGRAPHIC REPORT OF MEETING
BETWEEN
MR. MONNICK AND SECRETARY MORGENTHAU

June 20, 1936

HM, Jr.: You got in yesterday, I hear.

M: I think you knew I was coming.

HM, Jr.: Baumgarten sent word to me.

M: Directly?

HM, Jr.: No; through Cochran, that you were coming on the Europa. How did you happen to go to Mr. Oliphant first?

M: Because I did not know how I could reach you. I knew Oliphant. I was afraid to reach you directly at the Treasury.

(Mr. Monnick gave the Secretary a letter from the Minister in France.)

M: They asked me to go to the United States to have a talk with you on the situation. I think you know a little bit how this mission has been given to me. You know that I have been here for four years before you came into office.

HM, Jr.: That was the time you had the talk with Professor Moley, Mr. Warburg and Mr. Bullitt.

M: It was while Mr. Roosevelt was President-elect. I was Financial Attache for four years. I saw President Roosevelt and we talked about the war debts. We were grateful at that time that the President agreed to see Claudel and myself. It was the day after President Roosevelt saw the Ambassador of Great Britain.

You know all that I did in London?

HM, Jr.: I do not know. I only know about your conversations with Butterworth.

M: Every time I was able to put Butterworth in touch with what I was doing, I did so, so that you could be informed. I could not have the French Government initiate conversation

in London.

HM, Jr.: You will have to describe what you mean.

M.: I mean that anyway we shall have to make an experimentation before going to do something more definite. We shall have to get to some kind of agreement between the United States, Great Britain and France to work up some kind of an equilibrium before coming to a real equilibrium.

HM, Jr.: I am not going to agree to say anything. The things that you have told Bewley are so contrary not only to what the previous Government said, but are so contrary to what Auriol says now and Mr. Blum, so what is the use of my saying that I agree or disagree? This may be what you think personally, but what I want is -- I am not a diplomat but I am interested and I do not suppose they sent you all the way here to say what you personally think. What I want to know is what Blum thinks and what Auriol thinks. I know what you said for the last six months, but that is not what your Government thinks.

(Mr. Monnick then handed the Secretary a letter from Blum to the President and the other letters to show HM, Jr. that he was an official spokesman.)

HM, Jr.: I have gone further than any other Secretary of the Treasury to help France.

M.: You do not know how grateful they are when you sent Cochran. We cannot go to the nation and say we will revolute today. We have two other ways. We can stick to the party and we can initiate some tentative agreement. Roueff was not there. Devaluation impossible by itself alone without help. Stick to the party and international tentative agreement.

HM, Jr.: What position does Herriot hold?

M.: Caillaux is President of the Chamber and Herriot is the man when the situation clears up.

(Monnick then handed the Secretary additional letters to the President.)

HM, Jr.: You really have the backing of more than one party.

13 juin 1936

LE MINISTRE

Monsieur le Secrétaire de
la Trésorerie,

J'ai prié Monsieur Monick de
se rendre aux Etats-Unis pour
me tenir au courant de l'initiative.

Je le charge de vous dire
personnellement combien j'ai
été touché des sentiments que vous
avez bien voulu me faire exprimer
par Monsieur M. Courbaud et
des témoignages de confiance dont

vous avez très voulu
me honorer.

Je vous en suis très reconnaissant
de voir à l'heure confidenciel
montrer beaucoup et je saisis
cette occasion pour vous
~~exprimer~~^{assurer} à mon tour de
notre désir de collaboration

Je vous prie d'agréer,
Monsieur le Secrétaire de la
Trésorerie l'expression de mes
sentiments les meilleurs et très
cordialement dévoués

Vincent Auriof

Ministère des Finances
Cabinet du Ministre

Monsieur le Secrétaire du Trésor
— de
Etats-Unis

M: Yes, Mr. Secretary. You understand I really am talking for France. What could be done for them?

HM, Jr: I want to explain this to you so that you will understand how to work. Mr. Hull and Mr. Phillips and nobody else know about this. The way we have divided this up is I consider this purely a monetary matter and I am not interested in trade agreements nor anything political. As such, Mr. Hull is delighted to permit me to handle this under the direction of the President. I have separated the diplomatic from the monetary.

M: I agree on that. I get your implication. I have been here enough to know.

HM, Jr: It was the same thing on the long negotiations we had with the Chinese. They sent finance people here to see me rather than trained diplomats. What Auriol has told me through Cochran is impossible. He wants us to try to come to an agreement with each country separately. It is impossible.

M: I think it is completely out of the picture. I agree on that right away.

HM, Jr: I do not know what understanding he has with the other glod bloc countries, Switzerland and Holland.

M: We have no agreement at all.

HM, Jr: The impression I had was that you could not make any move without first consulting Switzerland and Holland and, furthermore, the other thing which I do not understand is that before you could make any agreement you would have to speak to Russia.

M: Who said so?

HM, Jr: Auriol,

M: Oh, my goodness!

HM, Jr: Because the Russian ruble is tied to the franc.

M: That is all wrong. It is a little bit mixed up. I think Auriol was a little bit afraid to speak freely to Cochran at the first visit.

HM, Jr.: Here is the situation. This matter is entirely in my hands.

M.: Let's not be mixed up with Switzerland and Holland and Russia.

HM, Jr.: Here is the danger to France. Switzerland and Holland may not wait.

M.: So we shall have a shock anyways.

HM, Jr.: I sent word to Auriol that this present situation from the standpoint of France is ideal now, because I sent him the assurance that if France would devalue a reasonable amount (and I did not mention the percentage) that the United States would not try to devalue further.

M.: That is right.

HM, Jr.: I furthermore sent him the assurance that I had very good reason to believe that England would do the same thing.

M.: And so have I. I have pretty good assurance from my talks in London if you would do it, that Great Britain would follow.

HM, Jr.: But the British have said that the French must approach them on this subject.

M.: Who said so?

HM, Jr.: Great Britain said so. They say, We have heard nothing about this. If there is to be an agreement the French should speak to us.

M.: We have.

HM, Jr.: The British say it is the sensible thing to do and the time is ripe, but France must come to them direct.

M.: I pretty well feel we shall come to something. I had a talk with Waley.

HM, Jr.: The top man is Phillips.

1484.
M: Waley is just under him on monetary matters. We had talks with Waley.

HM,Jr: How long since you have talked to him?

M: Some 15 days.

HM,Jr: Oh, well, since that time lots of things have happened.

M: I think we must come to something and the time is ripe. The situation is now desperate in France.

HM,Jr: What do you mean about economic dumping by Germany.

M: Waley told me, Are you sure if we devalue that Germany will not take the opportunity to We shall be deluged with goods coming from Germany.

HM,Jr: Germany has what I call selective devaluation. In some cases she has devalued when she wishes to as much as 40%. You know that she permits just the kind of goods to go out that she wants to. The way I feel is this: if Great Britain and the United States have an agreement on the franc and the pound and the dollar, it would be so strong that any Government -- I do not care whether it is Germany, Hungary, South America or Brazil -- the combination of those three countries in the monetary world -- no country could resist them.

M: I agree. What about Germany making it too low devaluation? That is what worries me.

HM,Jr: I do not know what you can do in the way of economic barriers.

M: We would really like to see a general move.

HM,Jr: I cannot answer that. It would be just the same if you tried to say, Let's bring the Japanese into this thing. After all, the Japanese yen has further devalued and their position is so much better that no matter what we do the Japanese yen still has the advantage. If you try to make this thing too big and include too many countries, it will be impossible.

M: Yes, I agree.

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HM, Jr.: I would no more sit in on a world monetary conference than jump out of this window. I have seen what you can do with the stabilization fund and how you can move the thing around. If Germany started a monetary war, in the first place let's be practical. They can do that any time today.

M.: That is true.

HM, Jr.: And you and England and ourselves would be alone and we would have no method to fight them.

M.: Except an economic barrier.

HM, Jr.: The world trade will not come back. The first thing to break down the economic barrier is world stabilization of currencies. In the Treasury, two weeks ago, we set up countervailing duties against Germany and the cotton exports have practically stopped. I would like to go into the German thing afterward, but right now the barrier, as I see it, to this move is Great Britain.

M.: You mean the difficulty to come to an agreement? I agree with you.

HM, Jr.: They will not do anything until your country speaks to them. You do not have to go to London. You can do it here. I have direct contact with a British representative in this country.

M.: Is it Bewley?

HM, Jr.: I do not want to say. I cannot tell you who is here any more than I would tell them that you are here and I am negotiating with you. I have a channel directly open to the Chancellor of the Exchequer.

M.: I am grateful that you are speaking so frankly. In spite of everything, you must not be fooled right here by them, and the second point is, what can we do with Great Britain to reach an agreement?

HM, Jr.: Our session of Congress ends tonight. I am going to my farm tomorrow morning. I will not be back until Tuesday. I wanted to have this conversation before I went. I will see the President tonight. Do you want me to deliver the letters to the President?

M: Oh, yes! They are yours now.

HM, Jr: I want to explain again that this is a very bad time for the President. You know, next week we have our convention. I am not quite sure that he can receive you right now, because they sent in a hundred bills that have to be vetoed or signed. I will have a chance to talk to him this evening and I will find out just what he has in mind. I will urge him to receive you.

M: This move is delicate. We are all afraid of what is happening around Germany. Poland asked us whether we would devalue and we were not in a position to answer yes and they took exchange restrictions and the situation has become worse.

HM, Jr: Before we get through, we will have a monetary conference. One of the best men from Poland is coming over; Colonel Kocz is the man in Poland. Out of this talk you can tell them just what the situation is and why we have reached an impasse. They say the situation is ripe. They want to see France devalue. They are willing to see a reasonable devaluation. They know how we feel, but they want France to come to speak to them first.

M: Why first? By what right have they got to ask this? That is not fair.

HM, Jr: In other words, they will tell me that they are ready and they want to see this happen, but it stops there. They will not use the United States as a medium.

M: We would not think of asking you to act as a medium.

HM, Jr: I think for the first meeting we have covered the ground pretty well. I will call Mrs. Klotz in the morning and tell her what the President says and she, in turn, will call you and tell you whether or not the President can see you. I think it is important for the President to see you and get this situation first hand.

M: I did not think we would cover so much ground at the first meeting.

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HM, Jr.: I always move fast. Your gold in the Bank of France is down to 50,000,000,000 francs. It seems to me that you have a strong argument. We estimate in the Bank of France there is \$800,000,000 of gold (12,000,000,000 francs) that belong to England, so Great Britain has an interest.

M.: That is about right.

HM, Jr.: I need not tell you that the only method by which they can keep the pound down ~~is~~ by buying gold in France.

M.: That was just what I was worrying about. We were afraid that we were too late.

HM, Jr.: We have not moved and will not move until France is taken care of.

M.: Thank you. I begin to feel for the first time that we shall come through.

HM, Jr.: You are not going to approach the State Department?

M.: Oh, no! This is financial business; nothing political. When shall I see you again?

HM, Jr.: The earliest I will be able to see you is Wednesday morning.

June 22, 1936

HM, Jr. told Mrs. Klotz over the 'phone that he had asked Bell to prepare a letter for the President's signature to be addressed to Ickes. A copy of the letter is attached.

THE WHITE HOUSE
WASHINGTON

My dear Mr. Administrator:

The Emergency Relief Appropriation Act of 1936 (Title II of the First Deficiency Appropriation Act, fiscal year 1936), among other provisions concerning the Federal Emergency Administration of Public Works, provides that "the Administrator may, upon the direction of the President, use not to exceed \$500,000,000 from funds on hand or to be received from the sale of securities, for the making of grants" to aid in financing certain types of projects.

It is my desire that for the present you should continue to confine the use of moneys realized from the sale of securities to aid in financing construction by means of loans, as authorized by the Emergency Appropriation Act, fiscal year 1936.

Sincerely yours,

The Honorable,

The Federal Emergency Administrator of Public Works
Washington, D. C.

AVK:dg

[PUBLIC—No. 740—74TH CONGRESS]

[H. R. 12395]

AN ACT

To provide revenue, equalize taxation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following Table of Contents, may be cited as the "Revenue Act of 1936":

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 Sec. 293. Additions to the tax in case of deficiency.
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 Sec. 295. Time extended for payment of tax shown on return.
 Sec. 296. Time extended for payment of deficiency.
 Sec. 297. Interest in case of jeopardy assessments.
 Sec. 298. Bankruptcy and receiverships.
 Sec. 299. Removal of property or departure from United States.

SUPPLEMENT N—CLAIMS AGAINST TRANSFERORS AND FIDUCIARIES

- Sec. 311. Transferred assets.
 Sec. 312. Notice of fiduciary relationship.

SUPPLEMENT O—OVERPAYMENTS

- Sec. 321. Overpayment of installment.
 Sec. 322. Refunds and credits.

TITLE IA—ADDITIONAL INCOME TAXES

- Sec. 351. Surtax on personal holding companies.

TITLE II—CAPITAL STOCK AND EXCESS-PROFITS TAX

- Sec. 401. Capital stock tax.
 Sec. 402. Excess-profits tax.

TITLE III—TAX ON UNJUST ENRICHMENT

- Sec. 501. Tax on net income from certain sources.
 Sec. 502. Credit for other taxes on income.
 Sec. 503. Administrative provisions.
 Sec. 504. Taxable years to which title is applicable.
 Sec. 505. Application of title to possessions.
 Sec. 506. Closing agreements.

TITLE IV—EXPORT, CHARITABLE, ETC., REFUNDS AND FLOOR STOCKS ADJUSTMENT UNDER AGRICULTURAL ADJUSTMENT ACT

- Sec. 601. Refunds under Agricultural Adjustment Act on exports, deliveries for charitable distribution or use, etc.
 Sec. 602. Floor stocks as of January 8, 1936.
 Sec. 603. Proclamations, etc., made applicable.
 Sec. 604. Repeals.

TITLE V—AMENDMENTS TO TAXES ON CERTAIN OILS

- Sec. 701. Tax on certain oils.
 Sec. 702. Processing tax on certain oils.
 Sec. 703. Miscellaneous provisions.
 Sec. 704. Effective date.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 801. Exemption from admissions tax of certain concerts.
 Sec. 802. Suits to enforce liens for taxes.
 Sec. 803. Interest on erroneous refunds.

- Sec. 804. Interest on overpayments.
 Sec. 805. Estate taxes—Revocable transfers.
 Sec. 806. Registration under the narcotic laws.
 Sec. 807. Reconsideration of refund claims.
 Sec. 808. Interest on judgments.
 Sec. 809. Termination of jewelry tax.
 Sec. 810. Tax on furs.
 Sec. 811. Importation of shingles.

TITLE VII—REFUNDS OF AMOUNTS COLLECTED UNDER THE AGRICULTURAL ADJUSTMENT ACT

- Sec. 901. Repeals.
 Sec. 902. Conditions on allowance of refunds.
 Sec. 903. Filing of claims.
 Sec. 904. Statute of limitations.
 Sec. 905. Jurisdiction of courts.
 Sec. 906. Procedure on claims for refunds of processing taxes.
 Sec. 907. Evidence and presumptions.
 Sec. 908. Interest on claims.
 Sec. 909. Limitations on review.
 Sec. 910. Liability of collectors.
 Sec. 911. Inapplicability to certain refunds.
 Sec. 912. Period not extended.
 Sec. 913. Definitions.
 Sec. 914. Authority of Commissioner.
 Sec. 915. Salaries and administrative expenses.
 Sec. 916. Personnel.

TITLE VIII—GENERAL PROVISIONS

- Sec. 1001. Definitions.
 Sec. 1002. Separability clause.
 Sec. 1003. Effective date of Act.

TITLE I—INCOME TAX

SUBTITLE A—INTRODUCTORY PROVISIONS

SEC. 1. APPLICATION OF TITLE.

The provisions of this title shall apply only to taxable years beginning after December 31, 1935. Income, war-profits, and excess-profits taxes for taxable years beginning prior to January 1, 1936, shall not be affected by the provisions of this title, but shall remain subject to the applicable provisions of prior revenue Acts, except as such provisions are modified by legislation enacted subsequent to this Act.

SEC. 2. CROSS REFERENCES.

The cross references in this title to other portions of the title, where the word "see" is used, are made only for convenience, and shall be given no legal effect.

SEC. 3. CLASSIFICATION OF PROVISIONS.

The provisions of this title are herein classified and designated as—
 Subtitle A—Introductory provisions.
 Subtitle B—General provisions, divided into Parts and sections.
 Subtitle C—Supplemental provisions, divided into Supplements and sections.

SEC. 4. SPECIAL CLASSES OF TAXPAYERS.

The application of the General Provisions and of Supplements A to D, inclusive, to each of the following special classes of taxpayers, shall be subject to the exceptions and additional provisions found in the Supplement applicable to such class, as follows:

- (a) Estates and trusts and the beneficiaries thereof,—Supplement E.
- (b) Members of partnerships,—Supplement F.
- (c) Insurance companies,—Supplement G.
- (d) Nonresident alien individuals,—Supplement H.
- (e) Foreign corporations,—Supplement I.
- (f) Individual citizens of any possession of the United States who are not otherwise citizens of the United States and who are not residents of the United States,—Supplement J.
- (g) Individual citizens of the United States or domestic corporations, satisfying the conditions of section 251 by reason of deriving a large portion of their gross income from sources within a possession of the United States,—Supplement J.
- (h) China Trade Act corporations,—Supplement K.

SUBTITLE B—GENERAL PROVISIONS

Part I—Rates of Tax

SEC. 11. NORMAL TAX ON INDIVIDUALS.

There shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax of 4 per centum of the amount of the net income in excess of the credits against net income provided in section 25.

SEC. 12. SURTAX ON INDIVIDUALS.

(a) DEFINITION OF "SURTAX NET INCOME".—As used in this section the term "surtax net income" means the amount of the net income in excess of the credits against net income provided in section 25 (b).

(b) RATES OF SURTAX.—There shall be levied, collected, and paid for each taxable year upon the surtax net income of every individual a surtax as follows:

Upon a surtax net income of \$4,000 there shall be no surtax; upon surtax net incomes in excess of \$4,000 and not in excess of \$6,000, 4 per centum of such excess.

\$80 upon surtax net incomes of \$6,000; and upon surtax net incomes in excess of \$6,000 and not in excess of \$8,000, 5 per centum in addition of such excess.

\$180 upon surtax net incomes of \$8,000; and upon surtax net incomes in excess of \$8,000 and not in excess of \$10,000, 6 per centum in addition of such excess.

\$300 upon surtax net incomes of \$10,000; and upon surtax net incomes in excess of \$10,000 and not in excess of \$12,000, 7 per centum in addition of such excess.

\$440 upon surtax net incomes of \$12,000; and upon surtax net incomes in excess of \$12,000 and not in excess of \$14,000, 8 per centum in addition of such excess.

\$600 upon surtax net incomes of \$14,000; and upon surtax net incomes in excess of \$14,000 and not in excess of \$16,000, 9 per centum in addition of such excess.

\$780 upon surtax net incomes of \$16,000; and upon surtax net incomes in excess of \$16,000 and not in excess of \$18,000, 11 per centum in addition of such excess.

\$1,000 upon surtax net incomes of \$18,000; and upon surtax net incomes in excess of \$18,000 and not in excess of \$20,000, 13 per centum in addition of such excess.

\$1,260 upon surtax net incomes of \$20,000; and upon surtax net incomes in excess of \$20,000 and not in excess of \$22,000, 15 per centum in addition of such excess.

\$1,560 upon surtax net incomes of \$22,000; and upon surtax net incomes in excess of \$22,000 and not in excess of \$24,000, 17 per centum in addition of such excess.

\$2,240 upon surtax net incomes of \$24,000; and upon surtax net incomes in excess of \$24,000 and not in excess of \$26,000, 19 per centum in addition of such excess.

\$3,380 upon surtax net incomes of \$26,000; and upon surtax net incomes in excess of \$26,000 and not in excess of \$28,000, 21 per centum in addition of such excess.

\$4,640 upon surtax net incomes of \$28,000; and upon surtax net incomes in excess of \$28,000 and not in excess of \$30,000, 24 per centum in addition of such excess.

\$6,080 upon surtax net incomes of \$30,000; and upon surtax net incomes in excess of \$30,000 and not in excess of \$32,000, 27 per centum in addition of such excess.

\$7,700 upon surtax net incomes of \$32,000; and upon surtax net incomes in excess of \$32,000 and not in excess of \$34,000, 31 per centum in addition of such excess.

\$9,560 upon surtax net incomes of \$34,000; and upon surtax net incomes in excess of \$34,000 and not in excess of \$36,000, 35 per centum in addition of such excess.

\$11,660 upon surtax net incomes of \$36,000; and upon surtax net incomes in excess of \$36,000 and not in excess of \$38,000, 39 per centum in addition of such excess.

\$14,000 upon surtax net incomes of \$38,000; and upon surtax net incomes in excess of \$38,000 and not in excess of \$40,000, 43 per centum in addition of such excess.

\$16,580 upon surtax net incomes of \$40,000; and upon surtax net incomes in excess of \$40,000 and not in excess of \$42,000, 47 per centum in addition of such excess.

\$19,400 upon surtax net incomes of \$42,000; and upon surtax net incomes in excess of \$42,000 and not in excess of \$44,000, 51 per centum in addition of such excess.

\$24,500 upon surtax net incomes of \$44,000; and upon surtax net incomes in excess of \$44,000 and not in excess of \$46,000, 55 per centum in addition of such excess.

\$30,000 upon surtax net incomes of \$46,000; and upon surtax net incomes in excess of \$46,000 and not in excess of \$48,000, 58 per centum in addition of such excess.

\$59,000 upon surtax net incomes of \$150,000; and upon surtax net incomes in excess of \$150,000 and not in excess of \$200,000, 60 per centum in addition of such excess.

\$89,000 upon surtax net incomes of \$200,000; and upon surtax net incomes in excess of \$200,000 and not in excess of \$250,000, 62 per centum in addition of such excess.

\$120,000 upon surtax net incomes of \$250,000; and upon surtax net incomes in excess of \$250,000 and not in excess of \$300,000, 64 per centum in addition of such excess.

\$152,000 upon surtax net incomes of \$300,000; and upon surtax net incomes in excess of \$300,000 and not in excess of \$400,000, 66 per centum in addition of such excess.

\$218,000 upon surtax net incomes of \$400,000; and upon surtax net incomes in excess of \$400,000 and not in excess of \$500,000, 68 per centum in addition of such excess.

\$286,000 upon surtax net incomes of \$500,000; and upon surtax net incomes in excess of \$500,000 and not in excess of \$750,000, 70 per centum in addition of such excess.

\$461,000 upon surtax net incomes of \$750,000; and upon surtax net incomes in excess of \$750,000 and not in excess of \$1,000,000, 72 per centum in addition of such excess.

\$641,000 upon surtax net incomes of \$1,000,000; and upon surtax net incomes in excess of \$1,000,000 and not in excess of \$2,000,000, 73 per centum in addition of such excess.

\$1,371,000 upon surtax net incomes of \$2,000,000; and upon surtax net incomes in excess of \$2,000,000 and not in excess of \$5,000,000, 74 per centum in addition of such excess.

\$3,591,000 upon surtax net incomes of \$5,000,000; and upon surtax net incomes in excess of \$5,000,000, 75 per centum in addition of such excess.

(c) **TAX ON PERSONAL HOLDING COMPANIES.**—For surtax on personal holding companies, see section 851.

(d) **AVOIDANCE OF SURTAXES BY INCORPORATION.**—For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see section 102.

SEC. 13. NORMAL TAX ON CORPORATIONS.

(a) **DEFINITION.**—As used in this title the term "normal-tax net income" means the net income minus the sum of—

(1) **INTEREST ON OBLIGATIONS OF THE UNITED STATES AND ITS INSTRUMENTALITIES.**—The credit provided in section 26 (a).

(2) **DIVIDENDS RECEIVED.**—The credit provided in section 26 (b). Such credit shall not be allowed in the case of a mutual investment company, as defined in section 48.

(3) **DIVIDENDS PAID.**—In the case of a mutual investment company the credit provided in section 27, computed without the benefit of subsection (b) thereof (relating to dividend carry-over).

(b) **IMPOSITION OF TAX.**—There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every corporation, a normal tax as follows:

Upon normal-tax net incomes not in excess of \$2,000, 8 per centum.
\$160 upon normal-tax net incomes of \$2,000; and upon normal-tax net incomes in excess of \$2,000 and not in excess of \$15,000, 11 per centum in addition of such excess.

\$1,590 upon normal-tax net incomes of \$15,000; and upon normal-tax net incomes in excess of \$15,000 and not in excess of \$40,000, 13 per centum in addition of such excess.

\$4,840 upon normal-tax net incomes of \$40,000; and upon normal-tax net incomes in excess of \$40,000, 15 per centum in addition of such excess.

(c) **EXEMPT CORPORATIONS.**—For corporations exempt from taxation under this title, see section 101.

(d) **BANKS AND TRUST COMPANIES.**—For rate of tax on certain banks and trust companies, see section 104.

SEC. 14. SURTAX ON UNDISTRIBUTED PROFITS.

(a) **DEFINITIONS.**—As used in this title—

(1) The term "adjusted net income" means the net income minus the sum of—

(A) The normal tax imposed by section 13.

(B) The credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations.

(C) In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the amount allowed as a credit under section 26 (d).

(D) In the case of a national mortgage association created under Title III of the National Housing Act, the amount allowed as a credit under section 26 (e).

(2) The term "undistributed net income" means the adjusted net income minus the sum of the dividends paid credit provided in section 27 and the credit provided in section 26 (c), relating to contracts restricting dividends.

(b) **IMPOSITION OF TAX.**—There shall be levied, collected, and paid for each taxable year upon the net income of every corporation a surtax equal to the sum of the following, subject to the application of the specific credit as provided in subsection (c):

7 per centum of the portion of the undistributed net income which is not in excess of 10 per centum of the adjusted net income.

12 per centum of the portion of the undistributed net income which is in excess of 10 per centum and not in excess of 20 per centum of the adjusted net income.

17 per centum of the portion of the undistributed net income which is in excess of 20 per centum and not in excess of 40 per centum of the adjusted net income.

22 per centum of the portion of the undistributed net income which is in excess of 40 per centum and not in excess of 60 per centum of the adjusted net income.

27 per centum of the portion of the undistributed net income which is in excess of 60 per centum of the adjusted net income.

(c) **ADJUSTED NET INCOME LESS THAN \$50,000.**—

(1) **SPECIFIC CREDIT.**—If the adjusted net income is less than \$50,000, there shall be allowed a specific credit equal to the portion of the undistributed net income which is in excess of 10 per centum of the adjusted net income and not in excess of \$5,000, such credit to be applied as provided in paragraph (2).

(2) **APPLICATION OF SPECIFIC CREDIT.**—If the corporation is entitled to a specific credit, the tax shall be equal to the sum of the following:

(A) A tax computed under subsection (b) upon the amount of the undistributed net income reduced by the amount of the specific credit, plus

(B) 7 per centum of the amount of the specific credit.

(d) **EXEMPTION FROM SURTAX.**—The following corporations shall not be subject to the surtax imposed by this section:

(1) Banks as defined in section 104.

(2) Domestic corporations which for any portion of the taxable year are in bankruptcy under the laws of the United States, or are insolvent and in receivership in any court of the United States or of any State, Territory, or the District of Columbia.

(3) Insurance companies subject to the tax imposed under section 201, 204, or 207.

(4) Foreign corporations.

(5) Corporations which, by reason of deriving a large portion of their gross income from sources within a possession of the United States, are entitled to the benefits of section 251.

(6) Corporations organized under the China Trade Act, 1922.

(7) Joint Stock Land Banks organized under the Federal Farm Loan Act, as amended.

(e) **EXEMPT CORPORATIONS.**—For corporations exempt from taxation under this title, see section 101.

(f) **TAX ON PERSONAL HOLDING COMPANIES.**—For surtax on personal holding companies, see section 351.

(g) **IMPROPER ACCUMULATION OF SURPLUS.**—For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see section 102.

Part II—Computation of Net Income

SEC. 21. NET INCOME.

"Net income" means the gross income computed under section 22, less the deductions allowed by section 23.

SEC. 22. GROSS INCOME.

(a) **GENERAL DEFINITION.**—"Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. In the case of Presidents of the United States and judges of courts of the United States taking office after June 6, 1932, the compensation received as such shall be included in gross income; and all Acts fixing the compensation of such Presidents and judges are hereby amended accordingly.

(b) **EXCLUSIONS FROM GROSS INCOME.**—The following items shall not be included in gross income and shall be exempt from taxation under this title:

(1) **LIFE INSURANCE.**—Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income);

(2) **ANNUITIES, ETC.**—Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 per centum of the aggregate premiums or consideration paid for such annuity (whether or not paid during such year), until the aggregate amount excluded from gross income under this title or prior income tax laws in respect of such annuity equals the aggregate premiums or consideration paid for such annuity. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph;

(3) **GIFTS, REQUESTS, AND DEVISES.**—The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income);

(4) **TAX-FREE INTEREST.**—Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (B) obligations of a corporation organized under Act of Congress, if such corporation is an instrumentality of the United States; or (C) the obligations of the United States or its possessions. Every person owning any of the obligations enumerated in clause (A), (B), or (C) shall, in the return required by this title, submit a statement showing the number and amount of such obligations owned by him and the income received therefrom, in such form and with such information as the Commissioner may require. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit) and in the case of obligations of a corporation organized under Act of Congress, the interest shall be exempt only if and to the extent provided in the respective Acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt from the taxes imposed by this title;

(5) **COMPENSATION FOR INJURIES OR SICKNESS.**—Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness;

(6) **MINISTERS.**—The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(7) **INCOME EXEMPT UNDER TREATY.**—Income of any kind, to the extent required by any treaty obligation of the United States;

(8) **MISCELLANEOUS ITEMS.**—The following items, to the extent provided in section 116:

Earned income from sources without the United States;

Salaries of certain Territorial employees;

The income of foreign governments;

Income of States, municipalities, and other political subdivisions;

Receipts of shipowners' mutual protection and indemnity associations;

Dividends from China Trade Act corporations;

Compensation of employees of foreign governments.

(c) **INVENTORIES.**—Whenever in the opinion of the Commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the Commissioner, with the approval of the Secretary, may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

(d) **DISTRIBUTIONS BY CORPORATIONS.**—Distributions by corporations shall be taxable to the shareholders as provided in section 115.

(e) **DETERMINATION OF GAIN OR LOSS.**—In the case of a sale or other disposition of property, the gain or loss shall be computed as provided in section 111.

(f) **GROSS INCOME FROM SOURCES WITHIN AND WITHOUT UNITED STATES.**—For computation of gross income from sources within and without the United States, see section 119.

SEC. 23. DEDUCTIONS FROM GROSS INCOME.

In computing net income there shall be allowed as deductions:

(a) **EXPENSES.**—All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

(b) **INTEREST.**—All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after September 24, 1917, and originally sub-

scribed for by the taxpayer) the interest upon which is wholly exempt from the taxes imposed by this title.

(c) **TAXES GENERALLY.**—Taxes paid or accrued within the taxable year, except—

(1) Federal income, war-profits, and excess-profits taxes (other than the excess-profits tax imposed by section 106 of the Revenue Act of 1935);

(2) income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States; but this deduction shall be allowed in the case of a taxpayer who does not signify in his return his desire to have to any extent the benefits of section 131 (relating to credit for taxes of foreign countries and possessions of the United States);

(3) estate, inheritance, legacy, succession, and gift taxes; and

(4) taxes assessed against local benefits of a kind tending to increase the value of the property assessed; but this paragraph shall not exclude the allowance as a deduction of so much of such taxes as is properly allocable to maintenance or interest charges.

(d) **TAXES OF SHAREHOLDERS PAID BY CORPORATION.**—The deduction for taxes allowed by subsection (c) shall be allowed to a corporation in the case of taxes imposed upon a shareholder of the corporation upon his interest as shareholder which are paid by the corporation without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes.

(e) **LOSSES BY INDIVIDUALS.**—In the case of an individual, losses sustained during the taxable year and not compensated for by insurance or otherwise—

(1) if incurred in trade or business; or

(2) if incurred in any transaction entered into for profit, though not connected with the trade or business; or

(3) of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft. No loss shall be allowed as a deduction under this paragraph if at the time of the filing of the return such loss has been claimed as a deduction for estate tax purposes in the estate tax return.

(f) **LOSSES BY CORPORATIONS.**—In the case of a corporation, losses sustained during the taxable year and not compensated for by insurance or otherwise.

(g) **WAGERING LOSSES.**—Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(h) **BASIS FOR DETERMINING LOSS.**—The basis for determining the amount of deduction for losses sustained, to be allowed under subsection (e) or (f), shall be the adjusted basis provided in section 113 (b) for determining the loss from the sale or other disposition of property.

(i) **LOSS ON WASH SALES OF STOCK OR SECURITIES.**—For disallowance of loss deduction in the case of sales of stock or securities where within thirty days before or after the date of the sale the taxpayer has acquired substantially identical property, see section 118.

(j) **CAPITAL LOSSES.**—Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in section 117 (d).

(k) **BAD DEBTS.**—Debts ascertained to be worthless and charged off within the taxable year (or, in the discretion of the Commissioner, a reasonable addition to a reserve for bad debts); and when satisfied that a debt is recoverable only in part, the Commissioner may allow such debt, in an amount not in excess of the part charged off within the taxable year, as a deduction.

(l) **DEPRECIATION.**—A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

(m) **DEPLETION.**—In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. (For percentage depletion allowable under this subsection, see section 114 (b), (3) and (4).)

(n) **BASIS FOR DEPRECIATION AND DEPLETION.**—The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be as provided in section 114.

(o) **CHARITABLE AND OTHER CONTRIBUTIONS.**—In the case of an individual, contributions or gifts made within the taxable year to or for the use of:

(1) the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) a corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious,

charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(3) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924;

(4) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(5) a fraternal society, order, or association, operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals;

to an amount which in all the above cases combined does not exceed 15 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary. (For unlimited deduction if contributions and gifts exceed 90 per centum of the net income, see section 120.)

(p) **PENSION TRUSTS.**—An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees (if such trust is exempt from tax under section 165, relating to trusts created for the exclusive benefit of employees) shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of ten consecutive years beginning with the year in which the transfer or payment is made. Any deduction allowable under section 23 (q) of the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 which under such section was apportioned to any taxable year beginning after December 31, 1935, shall be allowed as a deduction in the years to which so apportioned to the extent allowable under such section if it had remained in force with respect to such year.

(q) **CHARITABLE AND OTHER CONTRIBUTIONS BY CORPORATIONS.**—In the case of a corporation, contributions or gifts made within the taxable year to or for the use of a domestic corporation, or domestic trust, or domestic community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or the prevention of cruelty to children (but in the case of contributions or gifts to a trust, chest, fund, or foundation, only if such contributions or gifts are to be used within the United States exclusively for such purposes), no part of the net earn-

ings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary.

(r) For deduction of dividends paid by certain banking corporations, see section 121.

SEC. 24. ITEMS NOT DEDUCTIBLE.

(a) **GENERAL RULE.**—In computing net income no deduction shall in any case be allowed in respect of—

- (1) Personal, living, or family expenses;
- (2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;
- (3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;
- (4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy;
- (5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this title; or
- (6) Loss from sales or exchanges of property, directly or indirectly, (A) between members of a family, or (B) except in the case of distributions in liquidation, between an individual and a corporation in which such individual owns, directly or indirectly, more than 50 per centum in value of the outstanding stock. For the purpose of this paragraph—(C) an individual shall be considered as owning the stock owned, directly or indirectly, by his family; and (D) the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(b) **HOLDERS OF LIFE OR TERMINABLE INTEREST.**—Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this Act (except the deductions provided for in subsections (1) and (m) of section 23) for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

(c) **TAX WITHHELD ON TAX-FREE COVENANT BONDS.**—For nondeductibility of tax withheld on tax-free covenant bonds, see section 143 (a) (3).

SEC. 25. CREDITS OF INDIVIDUAL AGAINST NET INCOME.

(a) **CREDITS FOR NORMAL TAX ONLY.**—There shall be allowed for the purpose of the normal tax, but not for the surtax, the following credits against the net income:

(1) **INTEREST ON UNITED STATES OBLIGATIONS.**—The amount received as interest upon obligations of the United States which is included in gross income under section 23.

(2) **INTEREST ON OBLIGATIONS OF INSTRUMENTALITIES OF THE UNITED STATES.**—The amount received as interest on obligations of a corporation organized under Act of Congress, if (A) such corporation is an instrumentality of the United States; and (B) such interest is included in gross income under section 23; and (C) under the Act authorizing the issue thereof, as amended and supplemented, such interest is exempt from normal tax.

(3) **EARNED INCOME CREDIT.**—10 per centum of the amount of the earned net income, but not in excess of 10 per centum of the amount of the net income.

(4) **EARNED INCOME DEFINITIONS.**—For the purposes of this section—

(A) "Earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include any amount not included in gross income, nor that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer, not in excess of 20 per centum of his share of the net profits of such trade or business, shall be considered as earned income.

(B) "Earned income deductions" means such deductions as are allowed by section 23 for the purpose of computing net income, and are properly allocable to or chargeable against earned income.

(C) "Earned net income" means the excess of the amount of the earned income over the sum of the earned income deductions. If the taxpayer's net income is not more than \$3,000, his entire net income shall be considered to be earned net income, and if his net income is more than \$3,000, his earned net income shall not be considered to be less than \$3,000. In no case shall the earned net income be considered to be more than \$14,000.

(b) **CREDITS FOR BOTH NORMAL TAX AND SURTAX.**—There shall be allowed for the purposes of the normal tax and the surtax the following credits against net income:

(1) **PERSONAL EXEMPTION.**—In the case of a single person, a personal exemption of \$1,000; or in the case of the head of a family or a married person living with husband or wife, a personal exemption of \$2,500. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be \$2,500. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

(2) **CREDIT FOR DEPENDENTS.**—\$400 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective.

(3) **CHANGE OF STATUS.**—If the status of the taxpayer, insofar as it affects the personal exemption or credit for dependents, changes during the taxable year, the personal exemption and credit shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

SEC. 26. CREDITS OF CORPORATIONS.

In the case of a corporation the following credits shall be allowed to the extent provided in the various sections imposing tax—

(a) **INTEREST ON OBLIGATIONS OF THE UNITED STATES AND ITS INSTRUMENTALITIES.**—The amount received as interest upon obligations of the United States or of corporations organized under Act of Congress which is allowed to an individual as a credit for purposes of normal tax by section 26(a)(1) or (2).

(b) **DIVIDENDS RECEIVED.**—85 per centum of the amount received as dividends from a domestic corporation which is subject to taxation under this title. The credit allowed by this subsection shall not be allowed in respect of dividends received from a corporation organized under the China Trade Act, 1922, or from a corporation which under section 251 is taxable only on its gross income from sources within the United States by reason of its receiving a large percentage of its gross income from sources within a possession of the United States.

(c) **CONTRACTS RESTRICTING PAYMENT OF DIVIDENDS.**—

(1) **PROHIBITION ON PAYMENT OF DIVIDENDS.**—An amount equal to the excess of the adjusted net income over the aggregate of the amounts which can be distributed within the taxable year as dividends without violating a provision of a written contract executed by the corporation prior to May 1, 1936, which provision expressly deals with the payment of dividends. If a corporation would be entitled to a credit under this paragraph because of a contract provision and also to one or more credits because of other contract provisions, only the largest of such credits shall be allowed, and for such purpose if two or more credits are equal in amount only one shall be taken into account.

(2) **DISPOSITION OF PROFITS OF TAXABLE YEAR.**—An amount equal to the portion of the earnings and profits of the taxable year which is required (by a provision of a written contract executed by the corporation prior to May 1, 1936, which provision expressly deals with the disposition of earnings and profits of the taxable year) to be paid within the taxable year in discharge of a debt, or to be irrevocably set aside within the taxable year for the discharge of a debt; to the extent that such amount has been so paid or set aside. For the purposes of this paragraph, a requirement to pay or set aside an amount equal to a percentage of earnings and profits shall be considered a requirement to pay or set aside such percentage of earnings and profits. As used in this paragraph, the word "debt" does not include a debt incurred after April 30, 1936.

(3) **DOUBLE CREDIT NOT ALLOWED.**—If both paragraph (1) and paragraph (2) apply, the one of such paragraphs which allows the greater credit shall be applied; and, if the credit allowable under each paragraph is the same, only one of such paragraphs shall be applied.

(d) **BANK AFFILIATE.**—In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the amount of the earnings or profits which the Board of Governors of the Federal Reserve System certifies to the Commissioner has been devoted by such affiliate during the taxable year to the acquisition of readily marketable assets other than bank stock in compliance with section 5144 of the Revised Statutes. The aggregate of the credits allowable under this subsection for all taxable years shall not exceed the amount required to be devoted under such section 5144 to such purposes.

(e) **NATIONAL MORTGAGE ASSOCIATIONS.**—In the case of a national mortgage association created under Title III of the National Housing Act, the amount of the earnings or profits which the Federal Housing Administrator certifies to the Commissioner has been devoted by such association during the taxable year to the acquisition of such reserves as the Administrator may require under the provisions of section 303 of that Act.

SEC. 27. CORPORATION CREDIT FOR DIVIDENDS PAID.

(a) **DIVIDENDS PAID CREDIT IN GENERAL.**—For the purposes of this title, the dividends paid credit shall be the amount of dividends paid during the taxable year.

(b) **DIVIDEND CARRY-OVER.**—In computing the dividends paid credit for any taxable year, if the dividends paid during the taxable year are less than the adjusted net income, there shall be allowed as part of the dividends paid credit, and in the following order:

(1) Dividends paid during the second preceding taxable year in excess of the adjusted net income for such year, to the extent not needed as a dividends paid credit for the taxable year preceding the taxable year the tax for which is being computed; and

(2) Dividends paid during the first preceding taxable year in excess of the adjusted net income for such year.

No credit shall be allowed for dividends paid by a corporation prior to its first taxable year under this title.

(c) **DIVIDENDS IN KIND.**—If a dividend is paid in property other than money (including stock of the corporation if held by the corporation as an investment) the dividends paid credit with respect thereto shall be the adjusted basis of the property in the hands of the corporation at the time of the payment, or the fair market value of the property at the time of the payment, whichever is the lower.

(d) **DIVIDENDS IN OBLIGATIONS OF THE CORPORATION.**—If a dividend is paid in obligations of the corporation, the amount of the dividends paid credit with respect thereto shall be the face value of the obligations, or their fair market value at the time of the payment, whichever is the lower. If the fair market value is lower than the face value, then when the obligation is redeemed by the corporation, the excess of the amount for which redeemed over the fair market value at the time of the dividend payment (to the extent not allowable as a deduction in computing net income for any taxable year) shall be treated as a dividend paid in the taxable year in which the redemption occurs.

(e) **TAXABLE STOCK DIVIDENDS.**—In case of a stock dividend or stock right which is a taxable dividend in the hands of shareholders under section 115 (f), the dividends paid credit with respect thereto shall be the fair market value of the stock or the stock right at the time of the payment.

(f) **DISTRIBUTIONS IN LIQUIDATION.**—In the case of amounts distributed in liquidation the part of such distribution which is properly chargeable to the earnings or profits accumulated after February 28, 1913, shall, for the purposes of computing the dividends paid credit under this section, be treated as a taxable dividend paid.

(g) **PREFERENTIAL DIVIDENDS.**—No dividends paid credit shall be allowed with respect to any distribution unless the distribution is pro rata, equal in amount, and with no preference to any share of stock as compared with other shares of the same class.

(h) **NONTAXABLE DISTRIBUTIONS.**—If any part of a distribution (including stock dividends and stock rights) is not a taxable dividend in the hands of such of the shareholders as are subject to taxation under this title for the period in which the distribution is made, no dividends paid credit shall be allowed with respect to such part.

Part III—Credits Against Tax

SEC. 31. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax, to the extent provided in section 131.

SEC. 32. TAXES WITHHELD AT SOURCE.

The amount of tax withheld at the source under section 143 or 144 shall be allowed as a credit against the tax.

SEC. 33. CREDIT FOR OVERPAYMENTS.

For credit against the tax of overpayments of taxes imposed by this title for other taxable years, see section 322.

Part IV—Accounting Periods and Methods of Accounting

SEC. 41. GENERAL RULE.

The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 48 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. (For use of inventories, see section 22 (c).)

SEC. 42. PERIOD IN WHICH ITEMS OF GROSS INCOME INCLUDED.

The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under section 41, any such amounts are to be properly accounted for as of a different period. In the case of the death of a taxpayer there shall be included in computing net income for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includible in respect of such period or a prior period.

SEC. 43. PERIOD FOR WHICH DEDUCTIONS AND CREDITS TAKEN.

The deductions and credits (other than the dividends paid credit provided in section 27) provided for in this title shall be taken for the taxable year in which "paid or accrued" or "paid or incurred", dependent upon the method of accounting upon the basis of which the net income is computed, unless in order to clearly reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer there shall be allowed as deductions and credits for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly allowable in respect of such period or a prior period.

SEC. 44. INSTALLMENT BASIS.

(a) **DEALERS IN PERSONAL PROPERTY.**—Under regulations prescribed by the Commissioner with the approval of the Secretary, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

(b) **SALES OF REALTY AND CASUAL SALES OF PERSONALTY.**—In the case (1) of a casual sale or other casual disposition of personal property (other than property of a kind which would properly

be included in the inventory of the taxpayer if on hand at the close of the taxable year), for a price exceeding \$1,000, or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed 30 per centum of the selling price (or, in case the sale or other disposition was in a taxable year beginning prior to January 1, 1934, the percentage of the selling price prescribed in the law applicable to such year), the income may, under regulations prescribed by the Commissioner with the approval of the Secretary, be returned on the basis and in the manner above prescribed in this section. As used in this section the term "initial payments" means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

(c) **CHANGE FROM ACCRUAL TO INSTALLMENT BASIS.**—If a taxpayer entitled to the benefits of subsection (a) elects for any taxable year to report his net income on the installment basis, then in computing his income for the year of change or any subsequent year, amounts actually received during any such year on account of sales or other dispositions of property made in any prior year shall not be excluded.

(d) **GAIN OR LOSS UPON DISPOSITION OF INSTALLMENT OBLIGATIONS.**—If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (1) in the case of satisfaction at other than face value or a sale or exchange—the amount realized, or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair market value of the obligation at the time of such distribution, transmission, or disposition. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full. This subsection shall not apply to the transmission at death of installment obligations if there is filed with the Commissioner, at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment.

SEC. 45. ALLOCATION OF INCOME AND DEDUCTIONS.

In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion, or allocate gross income or deductions between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses.

SEC. 46. CHANGE OF ACCOUNTING PERIOD.

If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the Commissioner, be computed on the basis of such new accounting period, subject to the provisions of section 47.

SEC. 47. RETURNS FOR A PERIOD OF LESS THAN TWELVE MONTHS.

(a) **RETURNS FOR SHORT PERIOD RESULTING FROM CHANGE OF ACCOUNTING PERIOD.**—If a taxpayer, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

(b) **INCOME COMPUTED ON BASIS OF SHORT PERIOD.**—Where a separate return is made under subsection (a) on account of a change in the accounting period, and in all other cases where a separate return is required or permitted, by regulations prescribed by the Commissioner with the approval of the Secretary, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate return is made.

(c) **INCOME PLACED ON ANNUAL BASIS.**—If a separate return is made (except returns of the income of a corporation) under subsection (a) on account of a change in the accounting period, the net income, computed on the basis of the period for which separate return is made, shall be placed on an annual basis by multiplying the amount thereof by twelve and dividing by the number of months included in the period for which the separate return is made. The tax shall be such part of the tax computed on such annual basis as the number of months in such period is of twelve months.

(d) **EARNED INCOME.**—The Commissioner with the approval of the Secretary shall by regulations prescribe the method of applying the provisions of subsections (b) and (c) (relating to computing income on the basis of a short period, and placing such income on an annual basis) to cases where the taxpayer makes a separate return under subsection (a) on account of a change in the accounting period, and it appears that for the period for which the return is so made he has received earned income.

(e) **REDUCTION OF CREDITS AGAINST NET INCOME.**—In the case of a return made for a fractional part of a year, except a return made under subsection (a), on account of a change in the accounting period, the personal exemption and credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to twelve months.

(f) **CLOSING OF TAXABLE YEAR IN CASE OF JEOPARDY.**—For closing of taxable year in case of jeopardy, see section 146.

SEC. 48. DEFINITIONS.

When used in this title—

(a) **TAXABLE YEAR.**—"Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this Part. "Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this title or under regulations prescribed by the Commissioner with the approval of the Secretary, the period for which such return is made.

(b) **FISCAL YEAR.**—"Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(c) **PAID, INCURRED, ACCRUED.**—The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this Part.

(d) **TRADE OR BUSINESS.**—The term "trade or business" includes the performance of the functions of a public office.

(e) **MUTUAL INVESTMENT COMPANIES.**—

(1) **GENERAL DEFINITION.**—The term "mutual investment company" means any corporation (whether chartered or created as an investment trust, or otherwise), other than a personal holding company as defined in section 351, if—

(A) It is organized for the purpose of, and substantially all its business consists of, holding, investing, or reinvesting in stock or securities; and

(B) At least 95 per centum of its gross income is derived from dividends, interest, and gains from sales or other disposition of stock or securities; and

(C) Less than 30 per centum of its gross income is derived from the sale or other disposition of stock or securities held for less than six months; and

(D) An amount not less than 80 per centum of its net income is distributed to its shareholders as taxable dividends during the taxable year; and

(E) Its shareholders are, upon reasonable notice, entitled to redemption of their stock for their proportionate interests in the corporation's properties, or the cash equivalent thereof less a discount not in excess of 3 per centum thereof.

(2) **LIMITATIONS.**—Despite the provisions of paragraph (1) a corporation shall not be considered as a mutual investment company if, subsequent to a date thirty days after the date of the enactment of this Act, at any time during the taxable year—

(A) More than 5 per centum of the gross assets of the corporation, taken at cost, was invested in stock or securities, or both, of any one corporation, government, or political subdivision thereof, but this limitation shall not apply to investments in obligations of the United States or in obligations of any corporation organized under general Act of Congress if such corporation is an instrumentality of the United States; or

(B) It owned more than 10 per centum of the outstanding stock or securities, or both, of any one corporation; or

(C) It had any outstanding bonds or indebtedness in excess of 10 per centum of its gross assets taken at cost; or

(D) It fails to comply with any rule or regulation prescribed by the Commissioner, with the approval of the Secretary, for the purpose of ascertaining the actual ownership of its outstanding stock.

Part V—Returns and Payment of Tax

SEC. 51. INDIVIDUAL RETURNS.

(a) **REQUIREMENT.**—The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual having a net income for the taxable year of \$1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of \$2,500 or over, if married and living with husband or wife; and

(3) Every individual having a gross income for the taxable year of \$5,000 or over, regardless of the amount of his net income.

(b) **HUSBAND AND WIFE.**—If a husband and wife living together have an aggregate net income for the taxable year of \$2,500 or over, or an aggregate gross income for such year of \$5,000 or over—

(1) Each shall make such a return, or

(2) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

(c) **PERSONS UNDER DISABILITY.**—If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(d) **FIDUCIARIES.**—For returns to be made by fiduciaries, see section 142.

SEC. 52. CORPORATION RETURNS.

Every corporation subject to taxation under this title shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe. The return shall be sworn to by the president, vice president, or other principal officer and by the treasurer, assistant treasurer, or chief accounting officer. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

SEC. 53. TIME AND PLACE FOR FILING RETURNS.

(a) TIME FOR FILING.—

(1) GENERAL RULE.—Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year.

(2) EXTENSION OF TIME.—The Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

(b) TO WHOM RETURN MADE.—

(1) INDIVIDUALS.—Returns (other than corporation returns) shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland.

(2) CORPORATIONS.—Returns of corporations shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Maryland.

SEC. 54. RECORDS AND SPECIAL RETURNS.

(a) BY TAXPAYER.—Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) TO DETERMINE LIABILITY TO TAX.—Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Commissioner deems sufficient to show whether or not such person is liable to tax under this title.

(c) INFORMATION AT THE SOURCE.—For requirement of statements and returns by one person to assist in determining the tax liability of another person, see sections 147 to 150.

(d) COPIES OF RETURNS.—If any person, required by law or regulations made pursuant to law to file a copy of any income return for any taxable year, fails to file such copy at the time required, there shall be due and assessed against such person \$5 in the case of an individual return or \$10 in the case of a fiduciary, partnership, or corporation return, and the collector with whom the return is filed shall prepare such copy. Such amount shall be collected and paid, without interest, in the same manner as the amount of tax due in excess of that shown by the taxpayer upon a return in the case of a mathematical error appearing on the face of the return. Copies of returns filed or prepared pursuant to this subsection shall remain on file for a period of not less than two years from the date they are required to be filed, and may be destroyed at any time thereafter under the direction of the Commissioner.

SEC. 55. PUBLICITY OF RETURNS.

(a) Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926; and all returns made under this Act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

(b) (1) All income returns filed under this title (or copies thereof, if so prescribed by regulations made under this subsection), shall be open to inspection by any official, body, or commission, lawfully charged with the administration of any State tax law, if the inspection is for the purpose of such administration or for the purpose of obtaining information to be furnished to local taxing authorities as provided in paragraph (2). The inspection shall be permitted only upon written request of the governor of such State, designating the representative of such official, body, or commission to make the inspection on behalf of such official, body, or commission. The inspection shall be made in such manner, and at such times and places, as shall be prescribed by regulations made by the Commissioner with the approval of the Secretary.

(2) Any information thus secured by any official, body, or commission of any State may be used only for the administration of the tax laws of such State, except that upon written request of the Governor of such State any such information may be furnished to any official, body, or commission of any political subdivision of such State, lawfully charged with the administration of the tax laws of such political subdivision, but may be furnished only for the purpose of, and may be used only for, the administration of such tax laws. Any officer, employee, or agent of any State or political subdivision, who divulges (except as authorized in this subsection, or when called upon to testify in any judicial or administrative proceeding to which the State or political subdivision, or such State or local official, body, or commission, as such, is a party) any information acquired by him through an inspection permitted him or another under this subsection shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both.

SEC. 56. PAYMENT OF TAX.

(a) TIME OF PAYMENT.—The total amount of tax imposed by this title shall be paid on the fifteenth day of March following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the third month following the close of the fiscal year.

(b) INSTALLMENT PAYMENTS.—The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax by the taxpayer, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(c) **EXTENSION OF TIME FOR PAYMENT.**—At the request of the taxpayer, the Commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, for a period not to exceed six months from the date prescribed for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(d) **VOLUNTARY ADVANCE PAYMENT.**—A tax imposed by this title, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

(e) **ADVANCE PAYMENT IN CASE OF JEOPARDY.**—For advance payment in case of jeopardy, see section 146.

(f) **TAX WITHHELD AT SOURCE.**—For requirement of withholding tax at the source in the case of nonresident aliens and foreign corporations, and in the case of so-called "tax-free covenant bonds", see sections 143 and 144.

(g) **FRACTIONAL PARTS OF CENT.**—In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(h) **RECEIPTS.**—Every collector to whom any payment of any income tax is made shall upon request give to the person making such payment a full written or printed receipt therefor.

SEC. 57. EXAMINATION OF RETURN AND DETERMINATION OF TAX.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

SEC. 58. ADDITIONS TO TAX AND PENALTIES.

(a) For additions to the tax in case of negligence or fraud in the nonpayment of tax or failure to file return therefor, see Supplement M.

(b) For criminal penalties for nonpayment of tax or failure to file return therefor, see section 145.

SEC. 59. ADMINISTRATIVE PROCEEDINGS.

For administrative proceedings in respect of the nonpayment or overpayment of a tax imposed by this title, see as follows:

(a) Supplement L, relating to assessment and collection of deficiencies.

(b) Supplement M, relating to interest and additions to tax.

(c) Supplement N, relating to claims against transferees and fiduciaries.

(d) Supplement O, relating to overpayments.

Part VI—Miscellaneous Provisions

SEC. 61. LAWS MADE APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this title.

SEC. 62. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

SEC. 63. TAXES IN LIEU OF TAXES UNDER 1934 ACT.

The taxes imposed by this title and Title IA shall be in lieu of the taxes imposed by Titles I and IA of the Revenue Act of 1934, as amended.

SEC. 64. SHORT TITLE.

This title may be cited as the "Income Tax Act of 1936".

SUBTITLE C—SUPPLEMENTAL PROVISIONS

Supplement A—Rates of Tax

(Supplementary to Subtitle B, Part I)

SEC. 101. EXEMPTIONS FROM TAX ON CORPORATIONS.

The following organizations shall be exempt from taxation under this title—

(1) Labor, agricultural, or horticultural organizations;

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(7) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(10) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 per centum or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

(11) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses;

(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

(13) Corporations organized by an association exempt under the provisions of paragraph (12), or members thereof, for the purpose of financing the ordinary crop operations of such mem-

bers or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose;

(14) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(15) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from Federal income taxes;

(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(17) Teachers' retirement fund associations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments.

(18) Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro-rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

SEC. 102. SURTAX ON CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS.

(a) **IMPOSITION OF TAX.**—There shall be levied, collected, and paid for each taxable year (in addition to other taxes imposed by this title) upon the net income of every corporation (other than a personal holding company as defined in section 851) if such corporation,

however created or organized, is formed or availed of for the purpose of preventing the imposition of the surtax upon its shareholders or the shareholders of any other corporation, through the medium of permitting earnings or profits to accumulate instead of being divided or distributed—

(1) In the case of corporations not subject to the surtax on undistributed profits imposed by section 14, a surtax equal to the sum of the following:

25 per centum of the amount of the retained net income not in excess of \$100,000, plus

35 per centum of the amount of the retained net income in excess of \$100,000.

(2) In the case of corporations subject to the surtax on undistributed profits imposed by section 14, a surtax equal to the sum of the following:

15 per centum of the amount of the retained net income not in excess of \$100,000, plus

25 per centum of the amount of the retained net income in excess of \$100,000.

(b) **PRIMA FACIE EVIDENCE.**—The fact that any corporation is a mere holding or investment company, or that the earnings or profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a purpose to avoid surtax upon shareholders.

(c) **DEFINITIONS.**—As used in this title—

(1) **SPECIAL ADJUSTED NET INCOME.**—The term "special adjusted net income" means the net income minus the sum of—

(A) **TAXES.**—Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year, to the extent not allowed as a deduction by section 23, but not including the tax imposed by this section or a corresponding section of a prior income-tax law.

(B) **DISALLOWED CHARITABLE, ETC., CONTRIBUTIONS.**—Contributions or gifts, not otherwise allowed as a deduction, to or for the use of donees described in section 23 (c), for the purposes therein specified.

(C) **DISALLOWED LOSSES.**—Losses from sales or exchanges of capital assets which are disallowed as a deduction by section 117 (d).

(D) **BANK AFFILIATES.**—In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the amount allowed as a credit under section 26 (d).

(E) **NATIONAL MORTGAGE ASSOCIATIONS.**—In the case of a national mortgage association created under Title III of the National Housing Act, the amount allowed as a credit under section 26 (e).

(2) **RETAINED NET INCOME.**—The term "retained net income" means the special adjusted net income minus the sum of the dividends paid credit provided in section 27 and the credit provided in section 26 (c), relating to contracts restricting dividends. For the purposes of this subsection, such credits shall be computed by substituting in section 26 (c) and in section 27 for the words "adjusted net income" wherever appearing in such sections the words "special adjusted net income".

(d) **PAYMENT OF SURTAX ON PRO RATA SHARES.**—The tax imposed by this section shall not apply if (1) all the shareholders of the corporation include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the retained net income of the corporation for such year, and (2) 90 per centum or more of such retained net income is so included in the gross income of shareholders other than corporations. Any amount so included in the gross income of a shareholder shall be treated as a dividend received. Any subsequent distribution made by the corporation out of earnings or profits for such taxable year shall, if distributed to any shareholder who has so included in his gross income his pro rata share, be exempt from tax in the amount of the share so included.

(e) **TAX ON PERSONAL HOLDING COMPANIES.**—For surtax on personal holding companies, see section 351.

SEC. 103. RATES OF TAX ON CITIZENS AND CORPORATIONS OF CERTAIN FOREIGN COUNTRIES.

Whenever the President finds that, under the laws of any foreign country, citizens or corporations of the United States are being subjected to discriminatory or extraterritorial taxes, the President shall so proclaim and the rates of tax imposed by sections 11, 12, 13, 201 (b), 204 (a), 211 (a), and 231 (a) shall, for the taxable year during which such proclamation is made and for each taxable year thereafter, be doubled in the case of each citizen and corporation of such foreign country; but the tax at such doubled rate shall be considered as imposed by sections 11, 12, 13, 201 (b), 204 (a), 211 (a), or 231 (a), as the case may be. In no case shall this section operate to increase the taxes imposed by such sections (computed without regard to this section) to an amount in excess of 80 per centum of the net income of the taxpayer. Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under the preceding provisions of this section have been modified so that discriminatory and extraterritorial taxes applicable to citizens and corporations of the United States have been removed, he shall so proclaim, and the provisions of this section providing for doubled rates of tax shall not apply to any citizen or corporation of such foreign country with respect to any taxable year beginning after such proclamation is made.

SEC. 104. BANKS AND TRUST COMPANIES.

(a) **DEFINITION.**—As used in this section the term "bank" means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any State, or of any Territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under section 11 (k) of the Federal Reserve Act, as amended, and which is subject by law to supervision and examination by State or Federal authority having supervision over banking institutions.

(b) **RATE OF TAX.**—Banks shall be taxable in the same manner as other corporations, except that they shall not be subject to the surtax imposed by section 14, and except that the normal tax imposed by section 13 shall be at the rate of 15 per centum instead of at the rates provided in such section.

SEC. 105. SALE OF OIL OR GAS PROPERTIES.

In the case of a bona fide sale of any oil or gas property, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration or discovery work done by the taxpayer, the portion of the tax imposed by section 12 attributable to such sale shall not exceed 30 per centum of the selling price of such property or interest.

Supplement B—Computation of Net Income

(Supplementary to Subtitle B, Part II)

SEC. 111. DETERMINATION OF AMOUNT OF, AND RECOGNITION OF, GAIN OR LOSS.

(a) **COMPUTATION OF GAIN OR LOSS.**—The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 113 (b) for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) **AMOUNT REALIZED.**—The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received.

(c) **RECOGNITION OF GAIN OR LOSS.**—In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this title, shall be determined under the provisions of section 112.

(d) **INSTALLMENT SALES.**—Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

SEC. 112. RECOGNITION OF GAIN OR LOSS.

(a) **GENERAL RULE.**—Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 111, shall be recognized, except as hereinafter provided in this section.

(b) **EXCHANGES SOLELY IN KIND.**—

(1) **PROPERTY HELD FOR PRODUCTIVE USE OR INVESTMENT.**—No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) **STOCK FOR STOCK OF SAME CORPORATION.**—No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) **STOCK FOR STOCK ON REORGANIZATION.**—No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) **SAME—GAIN OR CORPORATION.**—No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

(5) **TRANSFER TO CORPORATION CONTROLLED BY TRANSFEROR.**—No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange.

(6) **PROPERTY RECEIVED BY CORPORATION ON COMPLETE LIQUIDATION OF ANOTHER.**—No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if—

(A) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 per centum of the total number of shares of all other classes of stock (except non-voting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) no distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1935; and either

(C) the distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the taxable year; in such case the adoption by the stockholders of the resolution under which is authorized the distribution of all the assets of such corporation in complete cancellation or redemption of all its stock, shall be

considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(D) such distribution is one of a series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within three years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

If such transfer of all the property does not occur within the taxable year the Commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such three-year period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, the assessment and collection of all income, war-profits, and excess-profits taxes then imposed by law for such taxable year or subsequent taxable years, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancellation or redemption under the plan, as a result of exchanges described in paragraph (8) of this subsection, of the shares not owned by the taxpayer.

(c) GAIN FROM EXCHANGES NOT SOLELY IN KIND.—

(1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an

amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(d) SAME—GAIN OF CORPORATION.—If an exchange would be within the provisions of subsection (b) (4) of this section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then—

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(e) LOSS FROM EXCHANGES NOT SOLELY IN KIND.—If an exchange would be within the provisions of subsection (b) (1) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(f) INVOLUNTARY CONVERSIONS.—If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the Commissioner with the approval of the Secretary, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

(g) DEFINITION OF REORGANIZATION.—As used in this section and section 113—

(1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock: of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, or (C) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its stockholders or both are in control of the

corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected.

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

(h) **DEFINITION OF CONTROL.**—As used in this section the term "control" means the ownership of stock possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and at least 80 per centum of the total number of shares of all other classes of stock of the corporation.

(i) **FOREIGN CORPORATIONS.**—In determining the extent to which gain shall be recognized in the case of any of the exchanges (made after the date of the enactment of this Act) described in subsection (b) (3), (4), (5), or (6), or described in so much of subsection (c) as refers to subsection (b) (3) or (5), or described in subsection (d), a foreign corporation shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the Commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

SEC. 113. ADJUSTED BASIS FOR DETERMINING GAIN OR LOSS.

(a) **BASIS (UNADJUSTED) OF PROPERTY.**—The basis of property shall be the cost of such property; except that—

(1) **INVENTORY VALUE.**—If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) **GIFTS AFTER DECEMBER 31, 1920.**—If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that for the purpose of determining loss the basis shall be the basis so determined or the fair market value of the property at the time of the gift, whichever is lower. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the Commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the Commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the Commissioner as of the date or approximate date at which, according to the best information that the Commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) **TRANSFER IN TRUST AFTER DECEMBER 31, 1920.**—If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) **GIFT OR TRANSFER IN TRUST BEFORE JANUARY 1, 1921.**—If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition.

(5) **PROPERTY TRANSMITTED AT DEATH.**—If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of such property at the time of such acquisition. In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, the basis of such property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as if the trust instrument had been a will executed on the day of the grantor's death. For the purpose of this paragraph property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising such power by bequest or devise.

(6) **TAX-FREE EXCHANGES GENERALLY.**—If the property was acquired, after February 28, 1913, upon an exchange described in section 112 (b) to (e), inclusive, the basis (except as provided in paragraph (15) of this subsection) shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 112 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(7) **TRANSFERS TO CORPORATION.**—If the property was acquired after December 31, 1917, by a corporation in connection with a reorganization, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(8) **PROPERTY ACQUIRED BY ISSUANCE OF STOCK OR AS PAID-IN SURPLUS.**—If the property was acquired after December 31, 1920, by a corporation—

(A) by the issuance of its stock or securities in connection with a transaction described in section 112 (b) (5) (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or

(B) as paid-in surplus or as a contribution to capital, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(9) **INVOLUNTARY CONVERSION.**—If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in section 112 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(10) **WASH SALES OF STOCK.**—If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 113 of this Act or corresponding provisions of prior income tax laws, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(11) **PROPERTY ACQUIRED DURING AFFILIATION.**—In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, without regard to inter-company transactions in respect of which gain or loss was not recognized. For the purposes of this paragraph, the term "period of affiliation" means the period during which such corporations were affiliated (determined in accordance with the law applicable thereto) but does not include any taxable year beginning on or after January 1, 1922, unless a consolidated return was made, nor any taxable year after the taxable year 1928. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this Act or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934, shall be determined in accordance with regulations prescribed under section 141 (b) of this Act or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of

1934. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this Act or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under section 141 (b) of this Act or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934, applicable to such period.

(12) **BASIS ESTABLISHED BY REVENUE ACT OF 1932.**—If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Revenue Act of 1932 was prescribed by section 113 (a) (6), (7), or (9) of such Act, then for the purposes of this Act the basis shall be the same as the basis therein prescribed in the Revenue Act of 1932.

(13) **PARTNERSHIPS.**—If the property was acquired, after February 28, 1913, by a partnership and the basis is not otherwise determined under any of the paragraphs (1) to (12), inclusive, of this subsection, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. If the property was distributed in kind by a partnership to any partner, the basis of such property in the hands of the partner shall be such part of the basis in his hands of his partnership interest as is properly allocable to such property.

(14) **PROPERTY ACQUIRED BEFORE MARCH 1, 1913.**—In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(15) **PROPERTY RECEIVED BY A CORPORATION ON COMPLETE LIQUIDATION OF ANOTHER.**—If the property was received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of section 112 (b) (6), then the basis shall be the same as it would be in the hands of the transferor.

(16) **BASIS ESTABLISHED BY REVENUE ACT OF 1934.**—If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof, for the purposes of the Revenue Act of 1934 was prescribed by section 113 (a) (6), (7), or (8) of such Act, then for the purposes of this Act the basis shall be the same as the basis therein prescribed in the Revenue Act of 1934.

(b) **ADJUSTED BASIS.**—The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(1) **GENERAL RULE.**—Proper adjustment in respect of the property shall in all cases be made—

(A) for expenditures, receipts, losses, or other items, properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years;

(B) in respect of any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent allowed (but not less than the amount allowable) under this Act or prior income tax laws. Where for any taxable year prior to the taxable year 1932 the depletion allowance was based on discovery value or a percentage of income, then the adjustment for depletion for such year shall be based on the depletion which would have been allowable for such year if computed without reference to discovery value or a percentage of income;

(C) in respect of any period prior to March 1, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained;

(D) in the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or 1921).

(2) **SUBSTITUTED BASIS.**—The term "substituted basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section or under any corresponding provision of a prior income tax law, providing that the basis shall be determined—

(A) by reference to the basis in the hands of a transferor, donor, or grantor, or

(B) by reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

SEC. 114. BASIS FOR DEPRECIATION AND DEPLETION.

(a) **BASIS FOR DEPRECIATION.**—The basis upon which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any

property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain upon the sale or other disposition of such property.

(b) **BASIS FOR DEPLETION.**—

(1) **GENERAL RULE.**—The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in paragraphs (2), (3), and (4) of this subsection.

(2) **DISCOVERY VALUE IN CASE OF MINES.**—In the case of mines (other than metal, coal, or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within thirty days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under section 23 (m) based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under section 23 (m) be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

(3) **PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.**—In the case of oil and gas wells the allowance for depletion under section 23 (m) shall be 27½ per centum of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under section 23 (m) be less than it would be if computed without reference to this paragraph.

(4) **PERCENTAGE DEPLETION FOR COAL AND METAL MINES AND SULPHUR.**—The allowance for depletion under section 23 (m) shall be, in the case of coal mines, 5 per centum, in the case of metal mines, 15 per centum, and, in the case of sulphur mines or deposits, 23 per centum, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property. A taxpayer making his first return under this title in respect of a property shall state whether he elects to have the depletion allowance for such property for the

taxable year for which the return is made computed with or without regard to percentage depletion, and the depletion allowance in respect of such property for such year shall be computed according to the election thus made. If the taxpayer fails to make such statement in the return, the depletion allowance for such property for such year shall be computed without reference to percentage depletion. The method, determined as above, of computing the depletion allowance shall be applied in the case of the property for all taxable years in which it is in the hands of such taxpayer, or of any other person if the basis of the property (for determining gain) in his hands is, under section 113, determined by reference to the basis in the hands of such taxpayer, either directly or through one or more substituted bases, as defined in that section. The above right of election shall be subject to the qualification that this paragraph shall, for the purpose of determining whether the method of computing the depletion allowance follows the property, be considered a continuation of section 114 (b) (4) of the Revenue Act of 1934, and as giving no new election in cases where such section would, if applied, give no new election.

SEC. 115. DISTRIBUTIONS BY CORPORATIONS.

(a) **DEFINITION OF DIVIDEND.**—The term "dividend" when used in this title (except in section 203 (a) (3) and section 207 (c) (1), relating to insurance companies) means any distribution made by a corporation to its shareholders, whether in money or in other property, (1) out of its earnings or profits accumulated after February 28, 1913, or (2) out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(b) **SOURCE OF DISTRIBUTIONS.**—For the purposes of this Act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113.

(c) **DISTRIBUTIONS IN LIQUIDATION.**—Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under section 111, but shall be recognized only to the extent provided in section 112. Despite the provisions of section 117 (a), 100 per centum of the gain so recognized shall be taken into account in computing net income, except in the case of amounts distributed in complete liquidation of a corporation. For the purpose of the preceding sentence, "complete liquidation" includes any one of a series of distributions made by a

corporation in complete cancellation or redemption of all of its stock in accordance with a bona fide plan of liquidation and under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, not exceeding two years from the close of the taxable year during which is made the first of the series of distributions under the plan. In the case of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of subsection (h) of this section of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits.

(d) **OTHER DISTRIBUTIONS FROM CAPITAL.**—If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(e) **DISTRIBUTIONS BY PERSONAL SERVICE CORPORATIONS.**—Any distribution made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 or the Revenue Act of 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or section 218 of the Revenue Act of 1921, shall be exempt from tax to the distributees.

(f) STOCK DIVIDENDS.

(1) **GENERAL RULE.**—A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution.

(2) **ELECTION OF SHAREHOLDERS AS TO MEDIUM OF PAYMENT.**—Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (A) in its stock or in rights to acquire its stock, of a class which if distributed without election would be exempt from tax under paragraph (1), or (B) in money or any other property (including its stock or in rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under paragraph (1)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(g) **REDEMPTION OF STOCK.**—If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(h) **EFFECT ON EARNINGS AND PROFITS OF DISTRIBUTIONS OF STOCK.**—The distribution (whether before January 1, 1936, or on

or after such date) to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation—

(1) if no gain to such distributee from the receipt of such stock or securities was recognized by law, or

(2) if the distribution was not subject to tax in the hands of such distributee because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution or because exempt to him under section 115 (f) of the Revenue Act of 1934 or a corresponding provision of a prior Revenue Act.

As used in this subsection the term "stock or securities" includes rights to acquire stock or securities.

(i) **DEFINITION OF PARTIAL LIQUIDATION.**—As used in this section the term "amounts distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(j) **VALUATION OF DIVIDEND.**—If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

SEC. 116. EXCLUSIONS FROM GROSS INCOME.

In addition to the items specified in section 22 (b), the following items shall not be included in gross income and shall be exempt from taxation under this title:

(a) **EARNED INCOME FROM SOURCES WITHOUT UNITED STATES.**—In the case of an individual citizen of the United States, a bona fide nonresident of the United States for more than six months during the taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) if such amounts would constitute earned income as defined in section 25 (a) if received from sources within the United States; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection.

(b) **TEACHERS IN ALASKA AND HAWAII.**—In the case of an individual employed by Alaska or Hawaii or any political subdivision thereof as a teacher in any educational institution, the compensation received as such. This subsection shall not exempt compensation paid directly or indirectly by the Government of the United States.

(c) **INCOME OF FOREIGN GOVERNMENTS.**—The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States.

(d) **INCOME OF STATES, MUNICIPALITIES, ETC.**—Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Terri-

tory, or income accruing to the government of any possession of the United States, or any political subdivision thereof.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility—

(1) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such public utility, prior to any division of such proceeds between the person and the State, Territory, political subdivision, or the District of Columbia, and if, but for the imposition of the tax imposed by this title, a part of such proceeds for the taxable year would accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then a tax upon the net income from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State, Territory, political subdivision, or the District of Columbia (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this title) would have accrued directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, bears to the amount of the net income from the operation of such public utility for such taxable year.

(2) If by the terms of such contract no part of the proceeds from the operation of the public utility for the taxable year would, irrespective of the tax imposed by this title, accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then the tax upon the net income of such person from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title.

(c) **BRIDGES TO BE ACQUIRED BY STATE OR POLITICAL SUBDIVISION.**—Whenever any State or political subdivision thereof, in pursuance of a contract to which it is not a party entered into before the enactment of the Revenue Act of 1928, is to acquire a bridge—

(1) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such bridge prior to any division of such proceeds, and if, but for the imposition of the tax imposed by this title, a part of such proceeds for the taxable year would accrue directly to or for the use of or would be applied for the benefit of such State or political subdivision, then a tax upon the net income from the operation of such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State or political subdivision (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this title) would have accrued directly to or for

the use of or would be applied for the benefit of such State or political subdivision, bears to the amount of the net income from the operation of such bridge for such taxable year. No such refund shall be made unless the entire amount of the refund is to be applied in part payment for the acquisition of such bridge.

(8) If by the terms of such contract no part of the proceeds from the operation of the bridge for the taxable year would, irrespective of the tax imposed by this title, accrue directly to or for the use of or be applied for the benefit of such State or political subdivision, then the tax upon the net income from the operation of such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title.

(f) **DIVIDEND FROM "CHINA TRADE ACT" CORPORATION.**—In the case of a person, amounts distributed as dividends to or for his benefit by a corporation organized under the China Trade Act, 1922, if, at the time of such distribution, he is a resident of China, and the equitable right to the income of the shares of stock of the corporation is in good faith vested in him.

(g) **SHIPOWNERS' PROTECTION AND INDEMNITY ASSOCIATIONS.**—The receipts of shipowners' mutual protection and indemnity associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax upon their net income from interest, dividends, and rents.

(h) **COMPENSATION OF EMPLOYEES OF FOREIGN GOVERNMENTS.**—

(1) **RULE FOR EXCLUSION.**—Wages, fees, or salary of an employee of a foreign government (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such government—

(A) If such employee is not a citizen of the United States; and

(B) If the services are of a character similar to those performed by employees of the Government of the United States in foreign countries; and

(C) If the foreign government whose employee is claiming exemption grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country.

(2) **CERTIFICATE BY SECRETARY OF STATE.**—The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign countries which grant an equivalent exemption to the employees of the Government of the United States performing services in such foreign countries, and the character of the services performed by employees of the Government of the United States in foreign countries.

SEC. 117. CAPITAL GAINS AND LOSSES.

(a) **GENERAL RULE.**—In the case of a taxpayer, other than a corporation, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net income:

100 per centum if the capital asset has been held for not more than 1 year;

80 per centum if the capital asset has been held for more than 1 year but not for more than 2 years;

60 per centum if the capital asset has been held for more than 2 years but not for more than 5 years;

40 per centum if the capital asset has been held for more than 5 years but not for more than 10 years;

30 per centum if the capital asset has been held for more than 10 years.

(b) **DEFINITION OF CAPITAL ASSETS.**—For the purposes of this title, "capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

(c) **DETERMINATION OF PERIOD FOR WHICH HELD.**—For the purpose of subsection (a)—

(1) In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if under the provisions of section 113, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of section 113, such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under the provisions of section 112 (g) of the Revenue Act of 1928 or the Revenue Act of 1932, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

(4) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 118 of this Act or section 118 of the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(d) **LIMITATION ON CAPITAL LOSSES.**—Losses from sales or exchanges of capital assets shall be allowed only to the extent of \$2,000 plus the gains from such sales or exchanges. If a bank or trust company incorporated under the laws of the United States or of any State or Territory, a substantial part of whose business is the

receipt of deposits, sells any bond, debenture, note, or certificate or other evidence of indebtedness issued by any corporation (including one issued by a government or political subdivision thereof), with interest coupons or in registered form, any loss resulting from such sale (except such portion of the loss as does not exceed the amount, if any, by which the adjusted basis of such instrument exceeds the par or face value thereof) shall not be subject to the foregoing limitation and shall not be included in determining the applicability of such limitation to other losses.

(e) **GAINS AND LOSSES FROM SHORT SALES, ETC.**—For the purpose of this title—

(1) gains or losses from short sales of property shall be considered as gains or losses from sales or exchanges of capital assets; and

(2) gains or losses attributable to the failure to exercise privileges or options to buy or sell property shall be considered as gains or losses from sales or exchanges of capital assets held for one year or less.

(f) **RETIREMENT OF BONDS, ETC.**—For the purposes of this title, amounts received by the holder upon the retirement of bonds, debentures, notes, or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form, shall be considered as amounts received in exchange therefor.

SEC. 115. LOSS FROM WASH SALES OF STOCK OR SECURITIES.

(a) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed under section 23 (e) (2); nor shall such deduction be allowed under section 23 (f) unless the claim is made by a corporation, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business.

(b) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(c) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 116. INCOME FROM SOURCES WITHIN UNITED STATES.

(a) **GROSS INCOME FROM SOURCES IN UNITED STATES.**—The following items of gross income shall be treated as income from sources within the United States:

(1) **INTEREST.**—Interest from the United States, any Territory, any political subdivision of a Territory, or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including—

(A) interest on deposits with persons carrying on the banking business paid to persons not engaged in business within the United States and not having an office or place of business therein, or

(B) interest received from a resident alien individual, a resident foreign corporation, or a domestic corporation, when it is shown to the satisfaction of the Commissioner that less than 20 per centum of the gross income of such resident payor or domestic corporation has been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such payor preceding the payment of such interest, or for such part of such period as may be applicable, or

(C) income derived by a foreign central bank of issue from bankers' acceptances;

(2) **DIVIDENDS.**—The amount received as dividends—

(A) from a domestic corporation other than a corporation entitled to the benefits of section 231, and other than a corporation less than 20 per centum of whose gross income is shown to the satisfaction of the Commissioner to have been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such corporation preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence), or

(B) from a foreign corporation unless less than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of this section; but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period derived from sources within the United States bears to its gross income from all sources; but dividends from a foreign corporation shall, for the purposes of section 131 (relating to foreign tax credit), be treated as income from sources without the United States;

(3) **PERSONAL SERVICES.**—Compensation for labor or personal services performed in the United States, but in the case of a non-resident alien individual temporarily present in the United States for a period or periods not exceeding a total of ninety days during the taxable year, compensation received by such an individual (if such compensation does not exceed \$3,000 in the aggregate) for labor or services performed as an employee of or under a contract

with a nonresident alien, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, shall not be deemed to be income from sources within the United States;

(4) **RENTALS AND ROYALTIES.**—Rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using in the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property; and

(5) **SALE OF REAL PROPERTY.**—Gains, profits, and income from the sale of real property located in the United States.

(6) **SALE OF PERSONAL PROPERTY.**—For gains, profits, and income from the sale of personal property, see subsection (e).

(b) **NET INCOME FROM SOURCES IN UNITED STATES.**—From the items of gross income specified in subsection (a) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States.

(c) **GROSS INCOME FROM SOURCES WITHOUT UNITED STATES.**—The following items of gross income shall be treated as income from sources without the United States:

(1) Interest other than that derived from sources within the United States as provided in subsection (a) (1) of this section;

(2) Dividends other than those derived from sources within the United States as provided in subsection (a) (2) of this section;

(3) Compensation for labor or personal services performed without the United States;

(4) Rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using without the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like properties; and

(5) Gains, profits, and income from the sale of real property located without the United States.

(d) **NET INCOME FROM SOURCES WITHOUT UNITED STATES.**—From the items of gross income specified in subsection (c) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto, and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be treated in full as net income from sources without the United States.

(e) **INCOME FROM SOURCES PARTLY WITHIN AND PARTLY WITHOUT UNITED STATES.**—Items of gross income, expenses, losses and deductions, other than those specified in subsections (a) and (c) of this section, shall be allocated or apportioned to sources within or without the United States, under rules and regulations prescribed by the

Commissioner with the approval of the Secretary. Where items of gross income are separately allocated to sources within the United States, there shall be deducted (for the purpose of computing the net income therefrom) the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of other expenses, losses or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States. In the case of gross income derived from sources partly within and partly without the United States, the net income may first be computed by deducting the expenses, losses, or other deductions apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income; and the portion of such net income attributable to sources within the United States may be determined by processes or formulas of general apportionment prescribed by the Commissioner with the approval of the Secretary. Gains, profits, and income from—

(1) transportation or other services rendered partly within and partly without the United States, or

(2) from the sale of personal property produced (in whole or in part) by the taxpayer within and sold without the United States, or produced (in whole or in part) by the taxpayer without and sold within the United States,

shall be treated as derived partly from sources within and partly from sources without the United States. Gains, profits and income derived from the purchase of personal property within and its sale without the United States or from the purchase of personal property without and its sale within the United States, shall be treated as derived entirely from sources within the country in which sold, except that gains, profits, and income derived from the purchase of personal property within the United States and its sale within a possession of the United States or from the purchase of personal property within a possession of the United States and its sale within the United States shall be treated as derived partly from sources within and partly from sources without the United States.

(f) **DEFINITIONS.**—As used in this section the words "sale" or "sold" include "exchange" or "exchanged"; and the word "produced" includes "created", "fabricated", "manufactured", "extracted", "processed", "cured", or "aged".

SEC. 120. UNLIMITED DEDUCTION FOR CHARITABLE AND OTHER CONTRIBUTIONS.

In the case of an individual if in the taxable year and in each of the ten preceding taxable years the amount of the contributions or gifts described in section 23 (c) plus the amount of income, war-profits, or excess-profits taxes paid during such year in respect of preceding taxable years, exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of section 23 (c), then the 15 per centum limit imposed by such section shall not be applicable.

SEC. 121. DEDUCTION OF DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF CERTAIN CORPORATIONS.

In computing the net income of any national banking association, or of any bank or trust company organized under the laws of any State, Territory, possession of the United States, or the Canal Zone, or of any other banking corporation engaged in the business of industrial banking and under the supervision of a State banking department or of the Comptroller of the Currency, or of any incorporated domestic insurance company, there shall be allowed as a deduction from gross income, in addition to deductions otherwise provided for in this title, any dividend (not including any distribution in liquidation) paid, within such taxable year, to the United States or to any instrumentality thereof exempt from Federal income taxes, on the preferred stock of the corporation owned by the United States or such instrumentality. The amount allowable as a deduction under this section shall be deducted from the dividends paid credit otherwise computed under section 27.

Supplement C—Credits Against Tax

[Supplementary to Subtitle B, Part III]

SEC. 131. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

(a) **ALLOWANCE OF CREDIT.**—If the taxpayer signifies in his return his desire to have the benefits of this section, the tax imposed by this title shall be credited with:

(1) **CITIZEN AND DOMESTIC CORPORATION.**—In the case of a citizen of the United States and of a domestic corporation, the amount of any income, war-profits, and excess-profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and

(2) **RESIDENT OF UNITED STATES.**—In the case of a resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any possession of the United States; and

(3) **ALIEN RESIDENT OF UNITED STATES.**—In the case of an alien resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any foreign country, if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes, allows a similar credit to citizens of the United States residing in such country; and

(4) **PARTNERSHIPS AND ESTATES.**—In the case of any such individual who is a member of a partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the partnership or the estate or trust paid or accrued during the taxable year to a foreign country or to any possession of the United States, as the case may be.

(b) **LIMIT ON CREDIT.**—The amount of the credit taken under this section shall be subject to each of the following limitations:

(1) The amount of the credit in respect of the tax paid or accrued to any country shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net

income from sources within such country bears to his entire net income for the same taxable year; and

(2) The total amount of the credit shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources without the United States bears to his entire net income for the same taxable year.

(c) **ADJUSTMENTS ON PAYMENT OF ACCRUED TAXES.**—If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the Commissioner, who shall redetermine the amount of the tax for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 322. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such sum as the Commissioner may require, conditioned upon the payment by the taxpayer of any amount of tax found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

(d) **YEAR IN WHICH CREDIT TAKEN.**—The credits provided for in this section may, at the option of the taxpayer and irrespective of the method of accounting employed in keeping his books, be taken in the year in which the taxes of the foreign country or the possession of the United States accrued, subject, however, to the conditions prescribed in subsection (c) of this section. If the taxpayer elects to take such credits in the year in which the taxes of the foreign country or the possession of the United States accrued, the credits for all subsequent years shall be taken upon the same basis, and no portion of any such taxes shall be allowed as a deduction in the same or any succeeding year.

(e) **PROOF OF CREDITS.**—The credits provided in this section shall be allowed only if the taxpayer establishes to the satisfaction of the Commissioner (1) the total amount of income derived from sources without the United States, determined as provided in section 119, (2) the amount of income derived from each country, the tax paid or accrued to which is claimed as a credit under this section, such amount to be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary, and (3) all other information necessary for the verification and computation of such credits.

(f) **TAXES OF FOREIGN SUBSIDIARY.**—For the purposes of this section a domestic corporation which owns a majority of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war-profits, or excess-profits taxes paid by such foreign corporation to any foreign country or to any possession of the United States, upon or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits: *Provided*, That the amount of tax deemed to

have been paid under this subsection shall in no case exceed the same proportion of the tax against which credit is taken which the amount of such dividends bears to the amount of the entire net income of the domestic corporation in which such dividends are included. The term "accumulated profits" when used in this subsection in reference to a foreign corporation, means the amount of its gains, profits, or income in excess of the income, war-profits, and excess-profits taxes imposed upon or with respect to such profits or income; and the Commissioner with the approval of the Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid; treating dividends paid in the first sixty days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits, or earnings. In the case of a foreign corporation, the income, war-profits, and excess-profits taxes of which are determined on the basis of an accounting period of less than one year, the word "year" as used in this subsection shall be construed to mean such accounting period.

(g) **CORPORATIONS TREATED AS FOREIGN.**—For the purposes of this section the following corporations shall be treated as foreign corporations:

- (1) A corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its gross income from sources within a possession of the United States;
- (2) A corporation organized under the China Trade Act, 1922, and entitled to the credit provided for in section 262.

Supplement D—Returns and Payment of Tax

[Supplementary to Subtitle B, Part VI]

SEC. 141. CONSOLIDATED RETURNS OF RAILROAD CORPORATIONS.

(a) **PRIVILEGE TO FILE CONSOLIDATED RETURNS.**—An affiliated group of corporations shall, subject to the provisions of this section, have the privilege of making a consolidated return for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the condition that all the corporations which have been members of the affiliated group at any time during the taxable year for which the return is made consent to all the regulations under subsection (b) (or, in case such regulations are not prescribed prior to the making of the return, then the regulations prescribed under section 141(b) of the Revenue Act of 1934 insofar as not inconsistent with this Act) prescribed prior to the making of such return; and the making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(b) **REGULATIONS.**—The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations

making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be determined, computed, assessed, collected, and adjusted in such manner as clearly to reflect the income and to prevent avoidance of tax liability.

(c) **COMPUTATION AND PAYMENT OF TAX.**—In any case in which a consolidated return is made the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) (or, in case such regulations are not prescribed prior to the making of the return, then the regulations prescribed under section 141(b) of the Revenue Act of 1934 insofar as not inconsistent with this Act) prescribed prior to the date on which such return is made.

(d) **DEFINITION OF "AFFILIATED GROUP."**—As used in this section an "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if—

- (1) At least 95 per centum of the stock of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations; and
- (2) The common parent corporation owns directly at least 95 per centum of the stock of at least one of the other corporations; and

(3) Each of the corporations is either (A) a corporation whose principal business is that of a common carrier by railroad or (B) a corporation the assets of which consist principally of stock in such corporations and which does not itself operate a business other than that of a common carrier by railroad. For the purpose of determining whether the principal business of a corporation is that of a common carrier by railroad, if a common carrier by railroad has leased its railroad properties and such properties are operated as such by another common carrier by railroad, the business of receiving rents for such railroad properties shall be considered as the business of a common carrier by railroad. As used in this paragraph, the term "railroad" includes a street, suburban, or interurban electric railway.

As used in this subsection (except in paragraph (3)) the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(e) **FOREIGN CORPORATIONS.**—A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of this section.

(f) **CHINA TRADE ACT CORPORATIONS.**—A corporation organized under the China Trade Act, 1922, shall not be deemed to be affiliated with any other corporation within the meaning of this section.

(g) **CORPORATIONS DERIVING INCOME FROM POSSESSIONS OF UNITED STATES.**—For the purposes of this section a corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its income from possessions of the United States, shall be treated as a foreign corporation.

(h) **SUBSIDIARY FORMED TO COMPLY WITH FOREIGN LAW.**—In the case of a domestic corporation owning or controlling, directly or indirectly, 100 per centum of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a

contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this title as a domestic corporation.

(i) **SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.**—If a notice under section 272 (a) in respect of a deficiency for any taxable year is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

(j) **RECEIVERSHIP CASES.**—If the common parent corporation of an affiliated group making a consolidated return would, if filing a separate return, be exempt under section 14 (d) (2) from the surtax on undistributed profits imposed by section 14, the affiliated group shall be exempt from such surtax imposed by section 14. In all other cases the affiliated group making a consolidated return shall be subject to the surtax imposed by section 14, regardless of the fact that one or more of the corporations in the group are in bankruptcy or in receivership.

(k) **ALLOCATION OF INCOME AND DEDUCTIONS.**—For allocation of income and deductions of related trades or businesses, see section 45.

SEC. 142. FIDUCIARY RETURNS.

(a) **REQUIREMENT OF RETURN.**—Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual having a net income for the taxable year of \$1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of \$2,500 or over, if married and living with husband or wife;

(3) Every individual having a gross income for the taxable year of \$5,000 or over, regardless of the amount of his net income;

(4) Every estate or trust the net income of which for the taxable year is \$1,000 or over;

(5) Every estate or trust the gross income of which for the taxable year is \$5,000 or over, regardless of the amount of the net income; and

(6) Every estate or trust of which any beneficiary is a nonresident alien.

(b) **JOINT FIDUCIARIES.**—Under such regulations as the Commissioner with the approval of the Secretary may prescribe a return made by one of two or more joint fiduciaries and filed in the office of the collector of the district where such fiduciary resides shall be sufficient compliance with the above requirement. Such fiduciary

shall make oath (1) that he has sufficient knowledge of the affairs of the individual, estate, or trust for which the return is made, to enable him to make the return, and (2) that the return is, to the best of his knowledge and belief, true and correct.

(c) **LAW APPLICABLE TO FIDUCIARIES.**—Any fiduciary required to make a return under this title shall be subject to all the provisions of law which apply to individuals.

SEC. 143. WITHHOLDING OF TAX AT SOURCE.

(a) **TAX-FREE COVENANT BONDS.**

(1) **REQUIREMENT OF WITHHOLDING.**—In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation, issued before January 1, 1934, contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per centum of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods, if payable to an individual, a partnership, or a foreign corporation not engaged in trade or business within the United States and not having any office or place of business therein: *Provided*, That if the liability assumed by the obligor does not exceed 2 per centum of the interest, then the deduction and withholding shall be at the following rates: (A) 10 per centum in the case of a nonresident alien individual (except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate, not less than 5 per centum, as may be provided by treaty with such country), or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (B) in the case of such a foreign corporation, 15 per centum, and (C) 2 per centum in the case of other individuals and partnerships: *Provided further*, That if the owners of such obligations are not known to the withholding agent the Commissioner may authorize such deduction and withholding to be at the rate of 2 per centum, or, if the liability assumed by the obligor does not exceed 2 per centum of the interest, then at the rate of 10 per centum.

(2) **BENEFIT OF CREDITS AGAINST NET INCOME.**—Such deduction and withholding shall not be required in the case of a citizen or resident entitled to receive such interest, if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefit of the credits provided in section 25 (b); nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Commissioner under section 215.

(3) **INCOME OF OBLIGOR AND OBLIGEE.**—The obligor shall not be allowed a deduction for the payment of the tax imposed by this title, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

(b) **NONRESIDENT ALIENS.**—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income (but only to the extent that any of the above items constitutes gross income from sources within the United States), of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, shall (except in the cases provided for in subsection (a) of this section and except as otherwise provided in regulations prescribed by the Commissioner under section 215) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to 10 per centum thereof, except that such rate shall be reduced, in the case of a nonresident alien individual a resident of a contiguous country, to such rate (not less than 5 per centum) as may be provided by treaty with such country: *Provided*, That no such deduction or withholding shall be required in the case of dividends paid by a foreign corporation unless (1) such corporation is engaged in trade or business within the United States or has an office or place of business therein, and (2) more than 85 per centum of the gross income of such corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of section 119: *Provided further*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent. Under regulations prescribed by the Commissioner, with the approval of the Secretary, there may be exempted from such deduction and withholding the compensation for personal services of nonresident alien individuals who enter and leave the United States at frequent intervals.

(c) **RETURN AND PAYMENT.**—Every person required to deduct and withhold any tax under this section shall make return thereof on or before March 15 of each year and shall on or before June 15, in lieu of the time prescribed in section 56, pay the tax to the official of the United States Government authorized to receive it. Every such person is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this section.

(d) **INCOME OF RECIPIENT.**—Income upon which any tax is required to be withheld at the source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

(e) **TAX PAID BY RECIPIENT.**—If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

(f) **REFUNDS AND CREDITS.**—Where there has been an overpayment of tax under this section any refund or credit made under the provisions of section 322 shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

(g) **WITHHOLDING BEFORE ENACTMENT OF ACT.**—Notwithstanding the provisions of subsections (a) and (b), the deduction and withholding for any period prior to the tenth day after the date of the enactment of this Act shall be upon the items of income and at the rates prescribed in section 143 (a) and (b) of the Revenue Act of 1934, as amended, in lieu of the items and rates prescribed in such subsections.

SEC. 144. PAYMENT OF CORPORATION INCOME TAX AT SOURCE.

(a) **GENERAL RULE.**—In the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 143 a tax equal to 15 per centum thereof, except that in the case of dividends the rate shall be 10 per centum, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 per centum with respect to dividends shall be reduced to such rate (not less than 5 per centum) as may be provided by treaty with such country; and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subsection (a) of that section (relating to tax-free covenant bonds) the deduction and withholding shall be at the rate specified in such subsection.

(b) **WITHHOLDING BEFORE ENACTMENT OF ACT.**—Notwithstanding the provisions of subsection (a), the deduction and withholding for any period prior to the tenth day after the date of the enactment of this Act shall be upon the items of income and at the rates prescribed in section 144 of the Revenue Act of 1934, as amended, in lieu of the items and rates prescribed in such subsection.

SEC. 145. PENALTIES.

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon

conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this title to collect, account for, and pay over any tax imposed by this title, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 146. CLOSING BY COMMISSIONER OF TAXABLE YEAR.

(a) **TAX IN JEOPARDY.**—If the Commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the Commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section the finding of the Commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design.

(b) **SECURITY FOR PAYMENT.**—A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any Act of Congress may furnish to the United States, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, security approved by the Commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The Commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this section, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any Act of Congress.

(c) **SAME—EXEMPTION FROM SECTION.**—If security is approved and accepted pursuant to the provisions of this section and such further or other security with respect to the tax or taxes covered

thereby is given as the Commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such respective taxes.

(d) **CITIZENS.**—In the case of a citizen of the United States or of a possession of the United States about to depart from the United States the Commissioner may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

(e) **DEPARTURE OF ALIEN.**—No alien shall depart from the United States unless he first procures from the collector or agent in charge a certificate that he has complied with all the obligations imposed upon him by the income, war-profits, and excess-profits tax laws.

(f) **ADDITION TO TAX.**—If a taxpayer violates or attempts to violate this section there shall, in addition to all other penalties, be added as part of the tax 25 per centum of the total amount of the tax or deficiency in the tax, together with interest at the rate of 6 per centum per annum from the time the tax became due.

SEC. 147. INFORMATION AT SOURCE.

(a) **PAYMENTS OF \$1,000 OR MORE.**—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another person, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in section 148 (a) or 149), of \$1,000 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) **RETURNS REGARDLESS OF AMOUNT OF PAYMENT.**—Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

(c) **RECIPIENT TO FURNISH NAME AND ADDRESS.**—When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) **OBLIGATIONS OF UNITED STATES.**—The provisions of this section shall not apply to the payment of interest on obligations of the United States.

SEC. 148. INFORMATION BY CORPORATIONS.

(a) **DIVIDEND PAYMENTS.**—Every corporation shall, when required by the Commissioner, render a correct return, duly verified under oath, of its payments of dividends, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(b) **PROFITS DECLARED AS DIVIDENDS.**—Every corporation shall, when required by the Commissioner, furnish him a statement of such facts as will enable him to determine the portion of the earnings or profits of the corporation (including gains, profits, and income not taxed) accumulated during such periods as the Commissioner may specify, which have been distributed or ordered to be distributed, respectively, to its shareholders during such taxable years as the Commissioner may specify.

(c) **ACCUMULATED EARNINGS AND PROFITS.**—When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of accumulated earnings and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed, and of the amounts that would be payable to each.

(d) **COMPENSATION OF OFFICERS AND EMPLOYEES.**—Under regulations prescribed by the Commissioner with the approval of the Secretary, every corporation subject to taxation under this title shall, in its return, submit a list of the names of all officers and employees of such corporation and the respective amounts paid to them during the taxable year of the corporation by the corporation as salary, commission, bonus, or other compensation for personal services rendered, if the aggregate amount so paid to the individual is in excess of \$15,000. The Secretary of the Treasury shall submit an annual report to Congress compiled from the returns made containing the names of, and amounts paid to, each such officer and employee and the name of the paying corporation.

SEC. 149. RETURNS OF BROKERS.

Every person doing business as a broker shall, when required by the Commissioner, render a correct return duly verified under oath, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, showing the names of customers for whom such person has transacted any business, with such details as to the profits, losses, or other information which the Commissioner may require, as to each of such customers, as will enable the Commissioner to determine whether all income tax due on profits or gains of such customers has been paid.

SEC. 150. COLLECTION OF FOREIGN ITEMS.

All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this title as the Commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect such payments without

having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than \$5,000 or imprisoned for not more than one year, or both.

Supplement E—Estates and Trusts**SEC. 161. IMPOSITION OF TAX.**

(a) **APPLICATION OF TAX.**—The taxes imposed by this title upon individuals shall apply to the income of estates or of any kind of property held in trust, including—

(1) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

(b) **COMPUTATION AND PAYMENT.**—The tax shall be computed upon the net income of the estate or trust, and shall be paid by the fiduciary, except as provided in section 166 (relating to revocable trusts) and section 167 (relating to income for benefit of the grantor). For return made by beneficiary, see section 142.

SEC. 162. NET INCOME.

The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(a) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by section 23 (c)) any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in section 23 (c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance or operation of a public cemetery not operated for profit;

(b) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under subsection (c) of this section in the same or any succeeding taxable year;

(c) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.

SEC. 163. CREDITS AGAINST NET INCOME.

(a) CREDITS OF ESTATE OR TRUST.—For the purpose of the normal tax and the surtax the estate or trust shall be allowed the same personal exemption as is allowed to a single person under section 25 (b) (1), and, if no part of the income of the estate or trust is included in computing the net income of any legatee, heir, or beneficiary, then in addition the same credits against net income for interest as are allowed by section 25 (a).

(b) CREDITS OF BENEFICIARY.—If any part of the income of an estate or trust is included in computing the net income of any legatee, heir, or beneficiary, such legatee, heir, or beneficiary shall, for the purpose of the normal tax, be allowed as credits against net income, in addition to the credits allowed to him under section 25, his proportionate share of such amounts of interest specified in section 25 (a) as are, under this Supplement, required to be included in computing his net income. Any remaining portion of such amounts specified in section 25 (a) shall, for the purpose of the normal tax, be allowed as credits to the estate or trust.

SEC. 164. DIFFERENT TAXABLE YEARS.

If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under section 162 (b), to include in computing his net income, shall be based upon the income of the estate or trust for any taxable year of the estate or trust (whether beginning on, before, or after January 1, 1936) ending within his taxable year.

SEC. 165. EMPLOYEES' TRUSTS.

A trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer, or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under section 161, but the amount actually distributed or made available to any distributee shall be taxable to him in the year in which so distributed or made available to the extent that it exceeds the amounts paid in by him. Such distributees shall for the purpose of the normal tax be allowed as credits against net income such part of the amount so distributed or made available as represents the items of interest specified in section 25 (a).

SEC. 166. REVOCABLE TRUSTS.

Where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested—

(1) in the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, or

(2) in any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, then the income of such part of the trust shall be included in computing the net income of the grantor.

SEC. 167. INCOME FOR BENEFIT OF GRANTOR.

(a) Where any part of the income of a trust—

(1) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor; or

(2) may, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in section 23 (c), relating to the so-called "charitable contribution" deduction);

then such part of the income of the trust shall be included in computing the net income of the grantor.

(b) As used in this section, the term "in the discretion of the grantor" means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question".

SEC. 168. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as credit against the tax of the beneficiary of an estate or trust to the extent provided in section 131.

SEC. 169. COMMON TRUST FUNDS.

(a) DEFINITIONS.—The term "common trust fund" means a fund maintained by a bank (as defined in section 104)—

(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian; and

(2) in conformity with the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System pertaining to the collective investment of trust funds by national banks.

(b) TAXATION OF COMMON TRUST FUNDS.—A common trust fund shall not be subject to taxation under this title, Title IA, or section

105 or 106 of the Revenue Act of 1935, and for the purposes of such titles and sections shall not be considered a corporation.

(c) **INCOME OF PARTICIPANTS IN FUND.**—Each participant in the common trust fund shall include in computing its net income its proportionate share, whether or not distributed and whether or not distributable, of the net income of the common trust fund. The net income of the common trust fund shall be computed in the same manner and on the same basis as in the case of an individual. The proportionate share of each participant in the amount of interest specified in section 25 (a) received by the common trust fund shall for the purposes of this Supplement be considered as having been received by such participant as such interest.

(d) **ADMISSION AND WITHDRAWAL.**—No gain or loss shall be realized by the common trust fund by the admission or withdrawal of a participant. The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant.

(e) **RETURNS BY BANK.**—Every bank (as defined in section 104) maintaining a common trust fund shall make a return under oath for each taxable year, stating specifically, with respect to such fund, the items of gross income and the deductions allowed by this title, and shall include in the return the names and addresses of the participants who would be entitled to share in the net income if distributed and the amount of the proportionate share of each participant. The return shall be sworn to as in the case of a return filed by the bank under section 52.

(f) **DIFFERENT TAXABLE YEARS OF COMMON TRUST FUND AND PARTICIPANT.**—If the taxable year of the common trust fund is different from that of a participant, the proportionate share of the net income of the common trust fund to be included in computing the net income of the participant for its taxable year shall be based upon the net income of the common trust fund for any taxable year of the common trust fund (whether beginning on, before, or after January 1, 1936) ending within the taxable year of the participant.

Supplement F—Partnerships

SEC. 181. PARTNERSHIP NOT TAXABLE.

Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity.

SEC. 182. TAX OF PARTNERS.

There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year.

SEC. 183. COMPUTATION OF PARTNERSHIP INCOME.

The net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual.

SEC. 184. CREDITS AGAINST NET INCOME.

The partner shall, for the purpose of the normal tax, be allowed as a credit against his net income, in addition to the credits allowed

to him under section 25, his proportionate share of such amounts (not in excess of the net income of the partnership) of interest specified in section 25 (a) as are received by the partnership.

SEC. 185. EARNED INCOME.

In the case of the members of a partnership the proper part of each share of the net income which consists of earned income shall be determined under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary and shall be separately shown in the return of the partnership.

SEC. 186. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of the member of a partnership to the extent provided in section 131.

SEC. 187. PARTNERSHIP RETURNS.

Every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed by this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

SEC. 188. DIFFERENT TAXABLE YEARS OF PARTNER AND PARTNERSHIP.

If the taxable year of a partner is different from that of the partnership, the distributive share of the net income of the partnership to be included in computing the net income of the partner for his taxable year shall be based upon the net income of the partnership for any taxable year of the partnership (whether beginning on, before, or after January 1, 1936) ending within the taxable year of the partner.

Supplement G—Insurance Companies

SEC. 201. TAX ON LIFE INSURANCE COMPANIES.

(a) **DEFINITION.**—When used in this title the term "life insurance company" means an insurance company engaged in the business of issuing life insurance and annuity contracts (including contracts of combined life, health, and accident insurance), the reserve funds of which held for the fulfillment of such contracts comprise more than 50 per centum of its total reserve funds.

(b) IMPOSITION OF TAX.

(1) **IN GENERAL.**—In lieu of the tax imposed by sections 13 and 14, there shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every life insurance company a tax of 15 per centum of the amount thereof.

(2) **NORMAL-TAX NET INCOME OF FOREIGN LIFE INSURANCE COMPANIES.**—In the case of a foreign life insurance company, the normal-tax net income shall be an amount which bears the same ratio to the normal-tax net income, computed without regard to this paragraph, as the reserve funds required by law and held by it at the end of the taxable year upon business transacted within the United States bear to the reserve funds held by it at the end of the taxable year upon all business transacted.

(3) **NO UNITED STATES INSURANCE BUSINESS.**—Foreign life insurance companies not carrying on an insurance business within the United States and holding no reserve funds upon business transacted within the United States, shall not be taxable under this section but shall be taxable as other foreign corporations.

SEC. 202. GROSS INCOME OF LIFE INSURANCE COMPANIES.

(a) In the case of a life insurance company the term "gross income" means the gross amount of income received during the taxable year from interest, dividends, and rents.

(b) The term "reserve funds required by law" includes, in the case of assessment insurance, sums actually deposited by any company or association with State or Territorial officers pursuant to law as guaranty or reserve funds, and any funds maintained under the charter or articles of incorporation of the company or association exclusively for the payment of claims arising under certificates of membership or policies issued upon the assessment plan and not subject to any other use.

SEC. 203. NET INCOME OF LIFE INSURANCE COMPANIES.

(a) **GENERAL RULE.**—In the case of a life insurance company the term "net income" means the gross income less—

(1) **TAX-FREE INTEREST.**—The amount of interest received during the taxable year which under section 22 (b) (4) is excluded from gross income;

(2) **RESERVE FUNDS.**—An amount equal to 4 per centum of the mean of the reserve funds required by law and held at the beginning and end of the taxable year, except that in the case of any such reserve fund which is computed at a lower interest assumption rate, the rate of $3\frac{3}{4}$ per centum shall be substituted for 4 per centum. Life insurance companies issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, shall be allowed, in addition to the above, a deduction of $8\frac{3}{4}$ per centum of the mean of such reserve funds (not required by law) held at the beginning and end of the taxable year, as the Commissioner finds to be necessary for the protection of the holders of such policies only;

(3) **RESERVE FOR DIVIDENDS.**—An amount equal to 2 per centum of any sums held at the end of the taxable year as a reserve for dividends (other than dividends payable during the year following the taxable year) the payment of which is deferred for a period of not less than five years from the date of the policy contract;

(4) **INVESTMENT EXPENSES.**—Investment expenses paid during the taxable year: *Provided*, That if any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed one-fourth of 1 per centum of the book value of the mean of the invested assets held at the beginning and end of the taxable year;

(5) **REAL ESTATE EXPENSES.**—Taxes and other expenses paid during the taxable year exclusively upon or with respect to the real estate owned by the company, not including taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and not including any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed upon a shareholder of a company upon his interest as shareholder, which are paid by the company without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes;

(6) **DEPRECIATION.**—A reasonable allowance, as provided in section 23 (1), for the exhaustion, wear and tear of property, including a reasonable allowance for obsolescence; and

(7) **INTEREST.**—All interest paid within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from taxation under this title.

(b) **RENTAL VALUE OF REAL ESTATE.**—The deduction under subsection (a) (5) or (6) of this section on account of any real estate owned and occupied in whole or in part by a life insurance company, shall be limited to an amount which bears the same ratio to such deduction (computed without regard to this subsection) as the rental value of the space not so occupied bears to the rental value of the entire property.

SEC. 204. INSURANCE COMPANIES OTHER THAN LIFE OR MUTUAL.

(a) **IMPOSITION OF TAX.**—

(1) **IN GENERAL.**—In lieu of the tax imposed by sections 13 and 14, there shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every insurance company (other than a life or mutual insurance company) a tax of 15 per centum of the amount thereof.

(2) **NORMAL-TAX NET INCOME OF FOREIGN COMPANIES.**—In the case of a foreign insurance company (other than a life or mutual insurance company), the normal-tax net income shall be the net income from sources within the United States minus the sum of—

(A) Interest on Obligations of the United States and Its Instrumentalities.—The credit provided in section 26 (a).

(B) Dividends Received.—The credit provided in section 26 (b).

(3) **NO UNITED STATES INSURANCE BUSINESS.**—Foreign insurance companies not carrying on an insurance business within the United States shall not be taxable under this section but shall be taxable as other foreign corporations.

(b) **DEFINITION OF INCOME, ETC.**—In the case of an insurance company subject to the tax imposed by this section—

(1) **GROSS INCOME.**—"Gross income" means the sum of (A) the combined gross amount earned during the taxable year, from investment income and from underwriting income as provided in this subsection, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners, and (B) gain during the taxable year from the sale or other disposition of property, and (C) all other items constituting gross income under section 22;

(2) **NET INCOME.**—"Net income" means the gross income as defined in paragraph (1) of this subsection less the deductions allowed by subsection (c) of this section;

(3) **INVESTMENT INCOME.**—"Investment income" means the gross amount of income earned during the taxable year from interest, dividends, and rents, computed as follows:

To all interest, dividends and rents received during the taxable year, add interest, dividends and rents due and accrued at the end of the taxable year, and deduct all interest, dividends and rents due and accrued at the end of the preceding taxable year;

(4) **UNDERWRITING INCOME.**—"Underwriting income" means the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred;

(5) **PREMIUMS EARNED.**—"Premiums earned on insurance contracts during the taxable year" means an amount computed as follows:

From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance. To the result so obtained add unearned premiums on outstanding business at the end of the preceding taxable year and deduct unearned premiums on outstanding business at the end of the taxable year;

(6) **LOSSES INCURRED.**—"Losses incurred" means losses incurred during the taxable year on insurance contracts, computed as follows:

To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year, and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year. To the result so obtained add all unpaid losses outstanding at the end of the taxable year and deduct unpaid losses outstanding at the end of the preceding taxable year;

(7) **EXPENSES INCURRED.**—"Expenses incurred" means all expenses shown on the annual statement approved by the National Convention of Insurance Commissioners, and shall be computed as follows:

To all expenses paid during the taxable year add expenses unpaid at the end of the taxable year and deduct expenses unpaid at the end of the preceding taxable year. For the purpose of computing the net income subject to the tax imposed by this section there shall be deducted from expenses incurred as defined in this paragraph all expenses incurred which are not allowed as deductions by subsection (c) of this section.

(c) **DEDUCTIONS ALLOWED.**—In computing the net income of an insurance company subject to the tax imposed by this section there shall be allowed as deductions:

(1) All ordinary and necessary expenses incurred, as provided in section 23 (a);

(2) All interest as provided in section 23 (b);

(3) Taxes as provided in section 23 (c);

(4) Losses incurred as defined in subsection (b) (6) of this section;

(5) Subject to the limitation contained in section 117 (d), losses sustained during the taxable year from the sale or other disposition of property;

(6) Bad debts in the nature of agency balances and bills receivable ascertained to be worthless and charged off within the taxable year;

(7) The amount of interest earned during the taxable year which under section 23 (b) (4) is excluded from gross income;

(8) A reasonable allowance for the exhaustion, wear and tear of property, as provided in section 23 (1);

(9) Charitable, and so forth, contributions, as provided in section 23 (q);

(10) Deductions (other than those specified in this subsection) as provided in section 23, but not in excess of the amount of the gross income included under subsection (b) (1) (C) of this section.

(d) **DEDUCTIONS OF FOREIGN CORPORATIONS.**—In the case of a foreign corporation the deductions allowed in this section shall be allowed to the extent provided in Supplement I in the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein.

(e) **DOUBLE DEDUCTIONS.**—Nothing in this section shall be construed to permit the same item to be twice deducted.

SEC. 205. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of a domestic insurance company subject to the tax imposed by section 201 or 204, to the extent provided in the case of a domestic corporation in section 181, and in such cases "net income" as used in that section means the net income as defined in this Supplement.

SEC. 206. COMPUTATION OF GROSS INCOME.

The gross income of insurance companies subject to the tax imposed by section 201 or 204 shall not be determined in the manner provided in section 119.

SEC. 207. MUTUAL INSURANCE COMPANIES OTHER THAN LIFE.

(a) **APPLICATION OF TITLE.**—Mutual insurance companies, other than life insurance companies, shall be taxable in the same manner as other corporations, except as hereinafter provided in this section, and except that they shall not be subject to the surtax imposed by

section 14, and except that the normal tax imposed by section 13 shall be at the rate of 15 per centum instead of at the rates provided in such section, and such normal tax shall be applicable to foreign corporations as well as domestic corporations; but foreign insurance companies not carrying on an insurance business within the United States shall be taxable as other foreign corporations.

(b) **GROSS INCOME.**—Mutual marine-insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance.

(c) **DEDUCTIONS.**—In addition to the deductions allowed to corporations by section 23 the following deductions to insurance companies shall also be allowed, unless otherwise allowed—

(1) **MUTUAL INSURANCE COMPANIES OTHER THAN LIFE INSURANCE.**—In the case of mutual insurance companies other than life insurance companies—

(A) the net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with State or Territorial officers pursuant to law as additions to guarantee or reserve funds); and

(B) the sums other than dividends paid within the taxable year on policy and annuity contracts.

(2) **MUTUAL MARINE INSURANCE COMPANIES.**—In the case of mutual marine insurance companies, in addition to the deductions allowed in paragraph (1) of this subsection, unless otherwise allowed, amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof;

(3) **MUTUAL INSURANCE COMPANIES OTHER THAN LIFE AND MARINE.**—In the case of mutual insurance companies (including interinsurers and reciprocal underwriters, but not including mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses, and reinsurance reserves.

Supplement H—Nonresident Alien Individuals

SEC. 211. TAX ON NONRESIDENT ALIEN INDIVIDUALS.

(a) **NO UNITED STATES BUSINESS OR OFFICE.**—There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by sections 11 and 12, upon the amount received, by every nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein, from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, a tax of 10 per centum of such amount, except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate (not

less than 5 per centum) as may be provided by treaty with such country.

(b) **UNITED STATES BUSINESS OR OFFICE.**—A nonresident alien individual engaged in trade or business in the United States or having an office or place of business therein shall be taxable without regard to the provisions of subsection (a). As used in this section, section 119, section 143, section 144, and section 231, the phrase "engaged in trade or business within the United States" includes the performance of personal services within the United States at any time within the taxable year, but does not include the performance of personal services for a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of ninety days during the taxable year and whose compensation for such services does not exceed in the aggregate \$3,000. Such phrase does not include the effecting of transactions in the United States in stocks, securities, or commodities through a resident broker, commission agent, or custodian.

SEC. 212. GROSS INCOME.

(a) **GENERAL RULE.**—In the case of a nonresident alien individual gross income includes only the gross income from sources within the United States.

(b) **SHIPS UNDER FOREIGN FLAG.**—The income of a nonresident alien individual which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States shall not be included in gross income and shall be exempt from taxation under this title.

SEC. 213. DEDUCTIONS.

(a) **GENERAL RULE.**—In the case of a nonresident alien individual the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) **LOSSES.**—

(1) The deduction, for losses not connected with the trade or business if incurred in transactions entered into for profit, allowed by section 23 (e) (2) shall be allowed whether or not connected with income from sources within the United States, but only if the profit, if such transaction had resulted in a profit, would be taxable under this title.

(2) The deduction for losses of property not connected with the trade or business if arising from certain casualties or theft, allowed by section 23 (e) (3), shall be allowed whether or not connected with income from sources within the United States, but only if the loss is of property within the United States.

(c) **CHARITABLE, ETC., CONTRIBUTIONS.**—The so-called "charitable contribution" deduction allowed by section 23 (c) shall be allowed whether or not connected with income from sources within the United States, but only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations, created in the United States, or to the vocational rehabilitation fund.

SEC. 214. CREDITS AGAINST NET INCOME

In the case of a nonresident alien individual the personal exemption allowed by section 25 (b) (1) of this title shall be only \$1,000. The credit for dependents allowed by section 25 (b) (2) shall not be allowed in the case of a nonresident alien individual unless he is a resident of a contiguous country.

SEC. 215. ALLOWANCE OF DEDUCTIONS AND CREDITS.

(a) **RETURN TO CONTAIN INFORMATION.**—A nonresident alien individual shall receive the benefit of the deductions and credits allowed to him in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(b) **TAX WITHHELD AT SOURCE.**—The benefit of the personal exemption and credit for dependents may, in the discretion of the Commissioner and under regulations prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefore with the withholding agent.

SEC. 216. CREDITS AGAINST TAX.

A nonresident alien individual shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 217. RETURNS.

(a) **REQUIREMENT.**—In the case of a nonresident alien individual the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then on or before the fifteenth day of June.

(b) **EXEMPTION FROM REQUIREMENT.**—Subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary, nonresident alien individuals subject to the tax imposed by section 211 (a) may be exempted from the requirement of filing returns of such tax.

SEC. 218. PAYMENT OF TAX.

(a) **TIME OF PAYMENT.**—In the case of a nonresident alien individual the total amount of tax imposed by this title shall be paid, in lieu of the time prescribed in section 56 (a), on the fifteenth day of June following the close of the calendar year, or, if the return

should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

(b) **WITHHOLDING AT SOURCE.**—For withholding at source of tax on income of nonresident aliens, see section 143.

SEC. 219. PARTNERSHIPS.

For the purpose of this title, a nonresident alien individual shall be considered as being engaged in a trade or business within the United States if the partnership of which he is a member is so engaged and as having an office or place of business within the United States if the partnership of which he is a member has such an office or place of business.

Supplement I—Foreign Corporations

SEC. 231. TAX ON FOREIGN CORPORATIONS.

(a) **NONRESIDENT CORPORATIONS.**—There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by sections 13 and 14, upon the amount received by every foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein, from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, a tax of 15 per centum of such amount, except that in the case of dividends the rate shall be 10 per centum, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 per centum with respect to dividends shall be reduced to such rate (not less than 5 per centum) as may be provided by treaty with such country.

(b) **RESIDENT CORPORATIONS.**—A foreign corporation engaged in trade or business within the United States or having an office or place of business therein shall be taxable without regard to the provisions of subsection (a), but the normal tax imposed by section 13 shall be at the rate of 22 per centum instead of at the rates provided in such section.

(c) **UNDISTRIBUTED PROFITS SURTAX.**—A foreign corporation shall not be subject to the surtax imposed by section 14.

(d) **GROSS INCOME.**—In the case of a foreign corporation gross income includes only the gross income from sources within the United States.

(e) **SHIPS UNDER FOREIGN FLAG.**—The income of a foreign corporation, which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, shall not be included in gross income and shall be exempt from taxation under this title.

SEC. 232. DEDUCTIONS.

(a) **IN GENERAL.**—In the case of a foreign corporation the deductions shall be allowed only if and to the extent that they are con-

connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) CHARITABLE, AND SO FORTH, CONTRIBUTIONS.—The so-called "charitable contribution" deduction allowed by section 23 (q) shall be allowed whether or not connected with income from sources within the United States.

SEC. 233. ALLOWANCE OF DEDUCTIONS AND CREDITS.

A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this title only by filing or causing to be filed with the collector a true and accurate return of its total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

SEC. 234. CREDITS AGAINST TAX.

Foreign corporations shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 235. RETURNS.

(a) TIME OF FILING.—In the case of a foreign corporation not having any office or place of business in the United States the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year then on or before the fifteenth day of June. If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return shall be made by the agent.

(b) EXEMPTION FROM REQUIREMENT.—Subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary, corporations subject to the tax imposed by section 231 (a) may be exempted from the requirement of filing returns of such tax.

SEC. 236. PAYMENT OF TAX.

(a) TIME OF PAYMENT.—In the case of a foreign corporation not having any office or place of business in the United States the total amount of tax imposed by this title shall be paid, in lieu of the time prescribed in section 56 (a), on the fifteenth day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

(b) WITHHOLDING AT SOURCE.—For withholding at source of tax on income of foreign corporations, see section 144.

SEC. 237. FOREIGN INSURANCE COMPANIES.

For special provisions relating to foreign insurance companies, see Supplement G.

SEC. 238. AFFILIATION.

A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

Supplement J—Possessions of the United States

SEC. 251. INCOME FROM SOURCES WITHIN POSSESSIONS OF UNITED STATES.

(a) GENERAL RULE.—In the case of citizens of the United States or domestic corporations, satisfying the following conditions, gross income means only gross income from sources within the United States—

(1) If 80 per centum or more of the gross income of such citizen or domestic corporation (computed without the benefit of this section), for the three-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

(2) If, in the case of such corporation, 50 per centum or more of its gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States; or

(3) If, in case of such citizen, 50 per centum or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.

(b) AMOUNTS RECEIVED IN UNITED STATES.—Notwithstanding the provisions of subsection (a) there shall be included in gross income all amounts received by such citizens or corporations within the United States, whether derived from sources within or without the United States.

(c) TAX IN CASE OF CORPORATIONS.—In the case of a domestic corporation entitled to the benefits of this section the normal tax imposed by section 13 shall be at the rate of 15 per centum instead of at the rates provided in such section, and such a corporation shall not be subject to the surtax imposed by section 14.

(d) DEFINITION.—As used in this section the term "possession of the United States" does not include the Virgin Islands of the United States.

(e) DEDUCTIONS.—

(1) Citizens of the United States entitled to the benefits of this section shall have the same deductions as are allowed by Supplement H in the case of a nonresident alien individual engaged in trade or business within the United States or having an office or place of business therein.

(2) Domestic corporations entitled to the benefits of this section shall have the same deductions as are allowed by Supplement I in the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein.

(f) CREDITS AGAINST NET INCOME.—A citizen of the United States entitled to the benefits of this section shall be allowed a personal exemption of only \$1,000 and shall not be allowed the credit for dependents provided in section 25 (b) (2).

(g) ALLOWANCE OF DEDUCTIONS AND CREDITS.—Citizens of the United States and domestic corporations entitled to the benefits of this section shall receive the benefit of the deductions and credits allowed to them in this title only by filing or causing to be filed with the collector a true and accurate return of their total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(h) CREDITS AGAINST TAX.—Persons entitled to the benefits of this section shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

(i) AFFILIATION.—A corporation entitled to the benefits of this section shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 252. CITIZENS OF POSSESSIONS OF UNITED STATES.

(a) Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States, shall be subject to taxation under this title only as to income derived from sources within the United States, and in such case the tax shall be computed and paid in the same manner and subject to the same conditions as in the case of other persons who are taxable only as to income derived from such sources.

(b) Nothing in this section shall be construed to alter or amend the provisions of the Act entitled "An Act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes", approved July 12, 1921, relating to the imposition of income taxes in the Virgin Islands of the United States.

Supplement K—China Trade Act Corporations

SEC. 251. TAXATION IN GENERAL.

In the case of a corporation organized under the China Trade Act, 1922, the normal tax imposed by section 13 shall be at the rate of 15 per centum instead of at the rates provided in such section, and such a corporation shall not be subject to the surtax imposed by section 14.

SEC. 252. CREDIT AGAINST NET INCOME.

(a) ALLOWANCE OF CREDIT.—For the purpose only of the taxes imposed by section 13 of this Act and section 106 of the Revenue

Act of 1935 there shall be allowed, in the case of a corporation organized under the China Trade Act, 1922, in addition to the credits against net income otherwise allowed such corporation, a credit against the net income of an amount equal to the proportion of the net income derived from sources within China (determined in a similar manner to that provided in section 119) which the par value of the shares of stock of the corporation owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date: *Provided*, That in no case shall the diminution, by reason of such credit, of the tax imposed by such section 13 (computed without regard to this section) exceed the amount of the special dividend certified under subsection (b) of this section; and in no case shall the diminution, by reason of such credit, of the tax imposed by such section 106 (computed without regard to this section) exceed the amount by which such special dividend exceeds the diminution permitted by this section in the tax imposed by such section 13.

(b) SPECIAL DIVIDEND.—Such credit shall not be allowed unless the Secretary of Commerce has certified to the Commissioner—

(1) The amount which, during the year ending on the date fixed by law for filing the return, the corporation has distributed as a special dividend to or for the benefit of such persons as on the last day of the taxable year were resident in China, the United States, or possessions of the United States, or were individual citizens of the United States or China, and owned shares of stock of the corporation;

(2) That such special dividend was in addition to all other amounts, payable or to be payable to such persons or for their benefit, by reason of their interest in the corporation; and

(3) That such distribution has been made to or for the benefit of such persons in proportion to the par value of the shares of stock of the corporation owned by each; except that if the corporation has more than one class of stock, the certificates shall contain a statement that the articles of incorporation provide a method for the apportionment of such special dividend among such persons, and that the amount certified has been distributed in accordance with the method so provided.

(c) OWNERSHIP OF STOCK.—For the purposes of this section shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested.

(d) DEFINITION OF CHINA.—As used in this section the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

SEC. 253. CREDITS AGAINST THE TAX.

A corporation organized under the China Trade Act, 1922, shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 264. AFFILIATION.

A corporation organized under the China Trade Act, 1922, shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 265. INCOME OF SHAREHOLDERS.

For exclusion of dividends from gross income, see section 116.

Supplement L—Assessment and Collection of Deficiencies**SEC. 271. DEFINITION OF DEFICIENCY.**

As used in this title in respect of a tax imposed by this title "deficiency" means—

(a) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or

(b) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax.

SEC. 272. PROCEDURE IN GENERAL.

(a) **PETITION TO BOARD OF TAX APPEALS.**—If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within ninety days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninth day), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such ninety-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For exceptions to the restrictions imposed by this subsection, see—

(1) Subsection (d) of this section, relating to waivers by the taxpayer;

(2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;

(3) Section 273, relating to jeopardy assessments;

(4) Section 274, relating to bankruptcy and receiverships; and

(5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(b) **COLLECTION OF DEFICIENCY FOUND BY BOARD.**—If the taxpayer files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) **FAILURE TO FILE PETITION.**—If the taxpayer does not file a petition with the Board within the time prescribed in subsection (a) of this section, the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) **WAIVER OF RESTRICTIONS.**—The taxpayer shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) of this section on the assessment and collection of the whole or any part of the deficiency.

(e) **INCREASE OF DEFICIENCY AFTER NOTICE MAILED.**—The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any penalty, additional amount or addition to the tax should be assessed—If claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) **FURTHER DEFICIENCY LETTERS RESTRICTED.**—If the Commissioner has mailed to the taxpayer notice of a deficiency as provided in subsection (a) of this section, and the taxpayer files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency in respect of the same taxable year, except in the case of fraud, and except as provided in subsection (e) of this section, relating to assertion of greater deficiencies before the Board, or in section 273 (c), relating to the making of jeopardy assessments. If the taxpayer is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this subsection, or of subsection (a) of this section, prohibiting assessment and collection until notice of deficiency has been mailed, or of section 322 (c), prohibiting credits or refunds after petition to the Board of Tax Appeals) as a notice of a deficiency, and the taxpayer shall have no right to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(g) **JURISDICTION OVER OTHER TAXABLE YEARS.**—The Board in redetermining a deficiency in respect of any taxable year shall consider such facts with relation to the taxes for other taxable years

as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other taxable year has been overpaid or underpaid.

(h) **FINAL DECISIONS OF BOARD.**—For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1005 of the Revenue Act of 1926.

(i) **PRORATING OF DEFICIENCY TO INSTALLMENTS.**—If the taxpayer has elected to pay the tax in installments and a deficiency has been assessed, the deficiency shall be prorated to the four installments. Except as provided in section 273 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment the date for payment of which has not arrived, shall be collected at the same time as and as part of such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived, shall be paid upon notice and demand from the collector.

(j) **EXTENSION OF TIME FOR PAYMENT OF DEFICIENCIES.**—Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of eighteen months, and, in exceptional cases, for a further period not in excess of twelve months. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

(k) **ADDRESS FOR NOTICE OF DEFICIENCY.**—In the absence of notice to the Commissioner under section 312 (a) of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by this title, if mailed to the taxpayer at his last known address, shall be sufficient for the purposes of this title even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

SEC. 273. JEOPARDY ASSESSMENTS.

(a) **AUTHORITY FOR MAKING.**—If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) **DEFICIENCY LETTERS.**—If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 272 (a), then the Commissioner shall mail a notice under such subsection within sixty days after the making of the assessment.

(c) **AMOUNT ASSESSABLE BEFORE DECISION OF BOARD.**—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 272 (f) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Board of Tax Appeals. The Commissioner shall notify the Board of the amount of such assessment, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) **AMOUNT ASSESSABLE AFTER DECISION OF BOARD.**—If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) **EXPIRATION OF RIGHT TO ASSESS.**—A jeopardy assessment may not be made after the decision of the Board has become final or after the taxpayer has filed a petition for review of the decision of the Board.

(f) **BOND TO STAY COLLECTION.**—When a jeopardy assessment has been made the taxpayer, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in section 297.

(g) **SAME—FURTHER CONDITIONS.**—If the bond is given before the taxpayer has filed his petition with the Board under section 272 (a), the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) **WAIVER OF STAY.**—Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

(i) **COLLECTION OF UNPAID AMOUNTS.**—When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which

has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 322, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

(j) **CLAIMS IN ABATEMENT.**—No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this title.

SEC. 274. BANKRUPTCY AND RECEIVERSHIPS.

(a) **IMMEDIATE ASSESSMENT.**—Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the restrictions imposed by section 272 (a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

(b) **UNPAID CLAIMS.**—Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within six years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in section 272 (j) and section 296 in the case of a deficiency in a tax imposed by this title.

SEC. 275. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

Except as provided in section 276—

(a) **GENERAL RULE.**—The amount of income taxes imposed by this title shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

(b) **REQUEST FOR PROMPT ASSESSMENT.**—In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within eighteen months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of three years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1) Such written request notifies the Commissioner that the corporation contemplates dissolution at or before the expiration of such 18 months' period; and

(2) The dissolution is in good faith begun before the expiration of such 18 months' period; and

(3) The dissolution is completed.

(c) **OMISSION FROM GROSS INCOME.**—If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 per centum of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 5 years after the return was filed.

(d) For the purposes of subsections (a), (b), and (c), a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(e) **CORPORATION AND SHAREHOLDER.**—If a corporation makes no return of the tax imposed by this title, but each of the shareholders includes in his return his distributive share of the net income of the corporation, then the tax of the corporation shall be assessed within four years after the last date on which any such shareholder's return was filed.

SEC. 276. SAME—EXCEPTIONS.

(a) **FALSE RETURN OR NO RETURN.**—In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(b) **WAIVER.**—Where before the expiration of the time prescribed in section 275 for the assessment of the tax, both the Commissioner and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) **COLLECTION AFTER ASSESSMENT.**—Where the assessment of any income tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be col-

lected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such six-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SEC. 277. SUSPENSION OF RUNNING OF STATUTE.

The running of the statute of limitations provided in section 275 or 276 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 272 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for sixty days thereafter.

Supplement M—Interest and Additions to the Tax

SEC. 291. FAILURE TO FILE RETURN.

In case of any failure to make and file return required by this title, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the tax: 5 per centum if the failure is for not more than thirty days with an additional 5 per centum for each additional thirty days or fraction thereof during which such failure continues, not exceeding 25 per centum in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax. The amount added to the tax under this section shall be in lieu of the 25 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

SEC. 292. INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed, or, in the case of a waiver under section 272 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

SEC. 293. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.

(a) **NEGLIGENCE.**—If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without

intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 272 (i), relating to the prorating of a deficiency, and of section 292, relating to interest on deficiencies, shall not be applicable.

(b) **FRAUD.**—If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

SEC. 294. ADDITIONS TO THE TAX IN CASE OF NONPAYMENT.

(a) TAX SHOWN ON RETURN.—

(1) **GENERAL RULE.**—Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 6 per centum per annum from the date prescribed for its payment until it is paid.

(2) **IF EXTENSION GRANTED.**—Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 295, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 6 per centum per annum shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) **DEFICIENCY.**—Where a deficiency, or any interest or additional amounts assessed in connection therewith under section 292, or under section 293, or any addition to the tax in case of delinquency provided for in section 291, is not paid in full within ten days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum from the date of such notice and demand until it is paid. If any part of a deficiency prorated to any unpaid installment under section 272 (i) is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 6 per centum per annum from such date until it is paid.

(c) **FIDUCIARIES.**—For any period an estate is held by a fiduciary appointed by order of any court of competent jurisdiction or by will, there shall be collected interest at the rate of 6 per centum per annum in lieu of the interest provided in subsections (a) and (b) of this section.

(d) **FILING OF JEOPARDY BOND.**—If a bond is filed, as provided in section 273, the provisions of subsections (b) and (c) of this section shall not apply to the amount covered by the bond.

SEC. 295. TIME EXTENDED FOR PAYMENT OF TAX SHOWN ON RETURN.

If the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, is extended under the authority of section 56 (c), there shall be collected as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

SEC. 296. TIME EXTENDED FOR PAYMENT OF DEFICIENCY.

If the time for the payment of any part of a deficiency is extended, there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 6 per centum per annum for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

SEC. 297. INTEREST IN CASE OF JEOPARDY ASSESSMENTS.

In the case of the amount collected under section 273 (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 273 (i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 292. If the amount included in the notice and demand from the collector under section 273 (i) is not paid in full within ten days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum (or, for any period the estate of the taxpayer is held by a fiduciary appointed by any court of competent jurisdiction or by will, at the rate of 6 per centum per annum) from the date of such notice and demand until it is paid.

SEC. 298. BANKRUPTCY AND RECEIVERSHIPS.

If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 274, is not paid in full within ten days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 6 per centum per annum from the date of such notice and demand until payment.

SEC. 299. REMOVAL OF PROPERTY OR DEPARTURE FROM UNITED STATES.

For additions to tax in case of leaving the United States or concealing property in such manner as to hinder collection of the tax, see section 146.

Supplement N—Claims against Transferees and Fiduciaries

SEC. 311. TRANSFERRED ASSETS.

(a) **METHOD OF COLLECTION.**—The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) **TRANSFEREES.**—The liability, at law or in equity, of a transferee of property of a taxpayer, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer by this title.

(2) **FIDUCIARIES.**—The liability of a fiduciary under section 3467 of the Revised Statutes in respect of the payment of any such tax from the estate of the taxpayer.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) **PERIOD OF LIMITATION.**—The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer,—within one year after the expiration of the period of limitation for assessment against the taxpayer;

(2) In the case of the liability of a transferee of a transferee of the property of the taxpayer,—within one year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within three years after the expiration of the period of limitation for assessment against the taxpayer;—except that if before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the taxpayer or last preceding transferee, respectively,—then the period of limitation for assessment of the liability of the transferee shall expire one year after the return of execution in the court proceeding.

(3) In the case of the liability of a fiduciary,—not later than one year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later.

(c) **PERIOD FOR ASSESSMENT AGAINST TAXPAYER.**—For the purposes of this section, if the taxpayer is deceased, or in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had death or termination of existence not occurred.

(d) **SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.**—The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing to the transferee or fiduciary of the notice provided for in section 273 (a), be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the

transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for sixty days thereafter.

(e) ADDRESS FOR NOTICE OF LIABILITY.—In the absence of notice to the Commissioner under section 312 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this title, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this title even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(f) DEFINITION OF "TRANSFeree".—As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

SEC. 312. NOTICE OF FIDUCIARY RELATIONSHIP.

(a) FIDUCIARY OF TAXPAYER.—Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayer in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayer), until notice is given that the fiduciary capacity has terminated.

(b) FIDUCIARY OF TRANSFeree.—Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 311, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) MANNER OF NOTICE.—Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

Supplement O—Overpayments

SEC. 321. OVERPAYMENT OF INSTALLMENT.

If the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 322.

SEC. 322. REFUNDS AND CREDITS.

(a) AUTHORIZATION.—Where there has been an overpayment of any tax imposed by this title, the amount of such overpayment shall be credited against any income, war-profits, or excess-profits tax or installment thereof then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) LIMITATION ON ALLOWANCE.—

(1) PERIOD OF LIMITATION.—Unless a claim for credit or refund is filed by the taxpayer within three years from the time the return

was filed by the taxpayer or within two years from the time the tax was paid, no credit or refund shall be allowed or made after the expiration of whichever of such periods expires the later. If no return is filed by the taxpayer, then no credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) LIMIT ON AMOUNT OF CREDIT OR REFUND.—The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or, if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund.

(c) EFFECT OF PETITION TO BOARD.—If the Commissioner has mailed to the taxpayer a notice of deficiency under section 272 (a) and if the taxpayer files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no credit or refund in respect of the tax for the taxable year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Board which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(d) OVERPAYMENT FOUND BY BOARD.—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that it was paid within three years before the filing of the claim or the filing of the petition, whichever is earlier.

(e) TAX WITHHELD AT SOURCE.—For refund or credit in case of excessive withholding at the source, see section 143 (f).

TITLE IA—ADDITIONAL INCOME TAXES

SEC. 351. SURTAX ON PERSONAL HOLDING COMPANIES.

(a) IMPOSITION OF TAX.—There shall be levied, collected, and paid, for each taxable year (in addition to the taxes imposed by Title I), upon the undistributed adjusted net income of every personal holding company a surtax equal to the sum of the following:

(1) 8 per centum of the amount thereof not in excess of \$2,000; plus

(2) 18 per centum of the amount thereof in excess of \$2,000 and not in excess of \$100,000; plus

(3) 28 per centum of the amount thereof in excess of \$100,000 and not in excess of \$500,000; plus

(4) 38 per centum of the amount thereof in excess of \$500,000 and not in excess of \$1,000,000; plus

(5) 48 per centum of the amount thereof in excess of \$1,000,000.

(b) **DEFINITIONS.**—As used in this title—

(1) The term "personal holding company" means any corporation (other than a corporation exempt from taxation under section 101, and other than a bank, as defined in section 104, and other than a life-insurance company or surety company) if—(A) at least 80 per centum of its gross income for the taxable year is derived from royalties, dividends, interest, annuities, and (except in the case of regular dealers in stock or securities) gains from the sale of stock or securities, and (B) at any time during the last half of the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals. For the purpose of determining the ownership of stock in a personal holding company—(C) stock owned, directly or indirectly, by a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries; (D) an individual shall be considered as owning, to the exclusion of any other individual, the stock owned, directly or indirectly, by his family, and this rule shall be applied in such manner as to produce the smallest possible number of individuals owning, directly or indirectly, more than 50 per centum in value of the outstanding stock; and (E) the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(2) The term "undistributed adjusted net income" means the adjusted net income minus the sum of:

(A) 20 per centum of the excess of the adjusted net income over the amount of dividends received from personal holding companies which are allowable as a credit for the purposes of the tax imposed by section 13 or 204;

(B) Amounts used or set aside to retire indebtedness incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness; and

(C) The amount of the dividends paid credit provided in section 27, computed without the benefit of subsection (b) thereof (relating to the dividend carry-over).

(3) The term "adjusted net income" means the net income minus the sum of:

(A) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction by section 23, but not including the tax imposed by this section or a corresponding section of a prior income-tax law;

(B) Contributions or gifts, not otherwise allowed as a deduction, to or for the use of donees described in section 23 (a) for the purposes therein specified, including, in the case of a corporation organized prior to January 1, 1936, to take over the assets

and liabilities of the estate of a decedent, amounts paid in liquidation of any liability of the corporation based on the liability of the decedent to make any such contribution or gift, to the extent such liability of the decedent existed prior to January 1, 1934; and

(C) Losses from sales or exchanges of capital assets which are disallowed as a deduction by section 117 (d).

(4) The terms used in this section shall have the same meaning as when used in Title I.

(c) **ADMINISTRATIVE PROVISIONS.**—All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, except that the provisions of section 131 of that title shall not be applicable.

(d) **PAYMENT OF SURTAX ON PRO RATA SHARES.**—The tax imposed by this section shall not apply if (1) all the shareholders of the corporation include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the adjusted net income of the corporation for such year, and (2) 90 per centum or more of such adjusted net income is so included in the gross income of shareholders other than corporations. Any amount so included in the gross income of a shareholder shall be treated as a dividend received. Any subsequent distribution made by the corporation out of earnings or profits for such taxable year shall, if distributed to any shareholder who has so included in his gross income his pro rata share, be exempt from tax in the amount of the share so included.

(e) **IMPROPER ACCUMULATION OF SURPLUS.**—For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see section 102.

TITLE II—CAPITAL STOCK AND EXCESS-PROFITS TAX

SEC. 401. CAPITAL STOCK TAX.

(a) Section 103 of the Revenue Act of 1935 is amended by striking out "\$1.40" wherever appearing therein and inserting in lieu thereof "\$1".

(b) Subsection (c) of such section is amended by striking out "1934" and inserting in lieu thereof "1936", and by striking out "as amended" wherever appearing in such subsection.

(c) Subsection (f) (4) of such section is amended to read as follows: "(4) the excess of its income wholly exempt from the taxes imposed by the applicable income-tax law over the amount disallowed as a deduction by section 24 (a) (5) of the Revenue Act of 1934 or a corresponding provision of a later Revenue Act, and".

SEC. 402. EXCESS-PROFITS TAX.

(a) Section 106 (b) of the Revenue Act of 1935 is amended by striking out "except that there shall be deducted the amount of income tax imposed for such year by section 13 of the Revenue Act of 1934, as amended" and inserting in lieu thereof "computed without

the deduction of the tax imposed by this section, but with a credit against net income equal to the credit for dividends received provided in section 26 (b) of the Revenue Act of 1936."

(b) The amendment made by subsection (a) shall not apply to an income-tax taxable year beginning before January 1, 1936.

TITLE III—TAX ON UNJUST ENRICHMENT

SEC. 501. TAX ON NET INCOME FROM CERTAIN SOURCES.

(a) The following taxes shall be levied, collected, and paid for each taxable year (in addition to any other tax on net income), upon the net income of every person which arises from the sources specified below:

(1) A tax equal to 80 per centum of that portion of the net income from the sale of articles with respect to which a Federal excise tax was imposed on such person but not paid which is attributable to shifting to others to any extent the burden of such Federal excise tax and which does not exceed such person's net income for the entire taxable year from the sale of articles with respect to which such Federal excise tax was imposed.

(2) A tax equal to 80 per centum of the net income from reimbursement received by such person from his vendors of amounts representing Federal excise-tax burdens included in prices paid by such person to such vendors, to the extent that such net income does not exceed the amount of such Federal excise-tax burden which such person in turn shifted to his vendees.

(3) A tax equal to 80 per centum of the net income from refunds or credits to such person from the United States of Federal excise taxes erroneously or illegally collected with respect to any articles, to the extent that such net income does not exceed the amount of the burden of such Federal excise taxes with respect to such articles which such person shifted to others.

(b) The net income (specified in subsection (a) (1)) from the sale of articles with respect to which the Federal excise tax was not paid, and the net income specified in subsection (a) (2) or (3), shall not include the net income from the sale of any article, from reimbursement with respect to any article, or from refund or credit of Federal excise tax with respect to any article (1) if such article (or the articles processed therefrom) were not sold by the taxpayer on or before the date of the termination of the Federal excise tax; (2) if the taxpayer made a tax adjustment with respect to such article (or the articles processed therefrom) with his vendee; or (3) if under the terms of any statute the taxpayer would have been entitled to a refund from the United States of the Federal excise tax with respect to the article otherwise than as an erroneous or illegal collection (assuming, in case the tax was not paid, that it had been paid).

(c) The net income from the sales specified in subsection (a) (1) shall be computed as follows:

(1) From the gross income from such sales there shall be deducted the allocable portion of the deductions from gross income for the taxable year which are allowable under the applicable Revenue Act; or

(2) If the taxpayer so elects by filing his return on such basis, the total net income for the taxable year from the sale of all articles with respect to which each Federal excise tax was imposed (computed by deducting from the gross income from such sales the allocable portion of the deductions from gross income which are allowable under the applicable Revenue Act, but without deduction of the amount of such Federal excise tax which was paid or of the amount of reimbursement to purchasers with respect to such Federal excise tax) shall be divided by the total quantity of such articles sold during the taxable year and the quotient shall be multiplied by the quantity of such articles involved in the sales specified in subsection (a) (1). Such quantities shall be expressed in terms of the unit on the basis of which the Federal excise tax was imposed.

For the purposes of this section the proper apportionment and allocation of deductions with respect to gross income shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(d) The net income from reimbursement or refunds specified in subsection (a) (2) or (3) shall be computed as follows: From the total payment or accrual (1) of reimbursement to the taxpayer from vendors for amounts representing Federal excise tax burdens included in prices paid by the taxpayer to such vendors or (2) of refunds or credits to the taxpayer of Federal excise taxes erroneously or illegally collected, there shall be deducted the expenses and fees reasonably incurred in obtaining such reimbursement or refunds.

(e) For the purposes of subsection (a) (1), (2), and (3), the extent to which the taxpayer shifted to others the burden of a Federal excise tax shall be presumed to be an amount computed as follows:

(1) From the selling price of the articles there shall be deducted the sum of (A) the cost of such articles plus (B) the average margin with respect to the quantity involved; or

(2) If the taxpayer so elects by filing his return on such basis, from the aggregate selling price of all articles with respect to which such Federal excise tax was imposed and which were sold by him during the taxable year (computed without deduction of reimbursement to purchasers with respect to such Federal excise tax) there shall be deducted the aggregate cost of such articles, and the difference shall be reduced to a margin per unit in terms of the basis on which the Federal excise tax was imposed. The excess of such margin per unit over the average margin (computed for the same unit) shall be multiplied by the number of such units represented by the articles with respect to which the computation is being made; but

(3) In no case shall the extent to which the taxpayer shifted to others the burden of the Federal excise tax with respect to the articles be deemed to exceed the amount of such tax with respect to such articles minus (A) the portion of the amount of the Federal excise tax (or of the reimbursement specified in subsection (a) (2)) with respect to the articles which is paid or credited by the taxpayer to any purchasers as specified in subsection (f) (3) and minus (B) the amount of any increase in the tax under section 602

of the Revenue Act of 1932 for which the taxpayer under this section became liable as the result of the nonpayment or refund of the Federal excise tax with respect to the articles.

(f) As used in this section—

(1) The term "margin" means the difference between the selling price of articles and the cost thereof, and the term "average margin" means the average difference between the selling price and the cost of similar articles sold by the taxpayer during his six taxable years preceding the initial imposition of the Federal excise tax in question, except that if during any part of such six-year period the taxpayer was not in business, or if his records for any part of such period are so inadequate as not to furnish satisfactory data, the average margin of the taxpayer for such part of such period shall, when necessary for a fair comparison, be deemed to be the average margin, as determined by the Commissioner, of representative concerns engaged in a similar business and similarly circumstanced.

(2) The term "cost" means, in the case of articles manufactured or produced by the taxpayer, the cost to the taxpayer of materials entering into the articles; or, in the case of articles purchased by the taxpayer for resale, the price paid by him for such articles (reduced in both cases by the amount for which he is reimbursed by his vendor).

(3) The term "selling price" means selling price minus (A) amounts subsequently paid or credited to the purchaser on or before June 1, 1936, or thereafter in the bona fide settlement of a written agreement entered into on or before March 3, 1936, as reimbursement for the amount included in such price on account of a Federal excise tax; and minus (B) the allocable portion of any professional fees and expenses of litigation incurred in securing the refund or preventing the collection of the Federal excise tax, not to exceed 10 per centum of the amount of such tax.

(g) In determining costs, selling prices, and net income, the taxpayer shall, unless otherwise shown, be deemed to have sold articles in the order in which they were manufactured, produced, or acquired. Where the taxpayer's records do not adequately establish the quantity of a commodity taxable under the Agricultural Adjustment Act, as amended, entering into articles sold by him, such quantities shall be computed by the use of the conversion factors prescribed in regulations under such Act, as amended.

(h) If the taxpayer made any purchase or sale otherwise than through an arm's-length transaction, and at a price other than the fair market price, the Commissioner may determine the purchase or sale price to be that for which such purchases or sales were at that time made in the ordinary course of trade.

(i) Either the taxpayer or the Commissioner may rebut the presumption established by subsection (e) by proof of the actual extent to which the taxpayer shifted to others the burden of the Federal excise tax. Such proof may include, but shall not be limited to:

(1) Proof that the change or lack of change in the margin was due to changes in factors other than the tax. Such factors shall include any clearly shown change (A) in the type or grade of article or materials, or (B) in costs of production. If the

taxpayer asserts that the burden of the tax was borne by him while the burden of any other increased cost was shifted to others, the Commissioner shall determine, from the respective effective dates of the tax and of the other increase in cost as compared with the date of the change in margin, and from the general experience of the industry, whether the tax or the increase in other cost was shifted to others. If the Commissioner determines that the change in margin was due in part to the tax and in part to the increase in other cost, he shall apportion the change in margin between them.

(2) Proof that the taxpayer modified contracts of sale, or adopted a new contract of sale, to reflect the initiation, termination, or change in amount of the Federal excise tax, or at any such time changed the sale price of the article (including the effect of a change in size, package, discount terms, or any other merchandising practice) by substantially the amount of the tax or change therein, or at any time billed the tax as a separate item to any vendee or indicated by any writing that the sale price included the amount of the tax, or contracted to refund any part of the sale price in the event of recovery of the tax or decision of its invalidity; but the taxpayer may establish that such acts were caused by factors other than the tax, or that they do not represent his practice during the period in which the articles in question were sold.

(j) As used in this section—

(1) The term "Federal excise tax" means a tax or exaction with respect to the sale, lease, manufacture, production, processing, ginning, importation, transportation, refining, recovery, or holding for sale or other disposition, of commodities or articles, provided for by any Federal statute, whether valid or invalid, if denominated a "tax" by such statute. A Federal excise tax shall be deemed to have been imposed with respect to an article if it was imposed with respect to (or with respect to the processing of) any commodity or other article, from which such article was processed.

(2) The term "date of the termination of the Federal excise tax" means, in the case of a Federal excise tax held invalid by a decision of the Supreme Court, the date of such decision.

(3) The term "refund or credit" does not include a refund or credit made in accordance with the provisions and limitations set forth in Title VII of this Act, or in section 621 (d) of the Revenue Act of 1932.

(4) The term "tax adjustment" means a repayment or credit by the taxpayer to his vendee of an amount equal to the Federal excise tax with respect to an article (less reasonable expense to the vendor in connection with the nonpayment or recovery by him of the amount of such tax and in connection with the making of such repayment or credit) if such repayment or credit is made on or before June 1, 1936, or thereafter in the bona fide settlement of a written agreement entered into on or before March 3, 1936.

(5) The term "taxpayer" means a person subject to a tax imposed by this section.

(k) All references in this section to the purchase or sale (or to parties to the sale) of articles with respect to which a Federal excise tax was imposed shall be deemed to include the purchase or sale (or parties to the sale) of services with respect to which a Federal excise tax was imposed, and for the purposes of subsection (a) the extent to which the taxpayer shifted to others the burden of such Federal excise tax with respect to such services shall be presumed to be an amount computed as follows: From the selling price of the services there shall be deducted the average price received by the taxpayer for performing similar services during the six taxable years preceding the initial imposition of the Federal excise tax in question. The balance (to the extent that it does not exceed the amount of such Federal excise tax with respect to such services minus any payments or credits with respect to the services made to purchasers as specified in subsection (f) (3)) shall be the extent to which the taxpayer shifted the burden of such Federal excise tax to others. If during any part of such six-year period the taxpayer was not in business, or if his records for any part of such period are so inadequate as not to furnish satisfactory data, the average price of the taxpayer for such part of such period shall, when necessary for a fair comparison, be deemed to be the average price, as determined by the Commissioner, of representative concerns engaged in a similar business and similarly circumstanced. The presumption established by this subsection may be rebutted by proof of the character described in subsection (i).

(l) The taxes imposed by subsection (a) shall be imposed on the net income from the sources specified therein, regardless of any loss arising from the other transactions of the taxpayer, and regardless of whether the taxpayer had a taxable net income (under the income-tax provisions of the applicable Revenue Act) for the taxable year as a whole; except that if such application of the tax imposed by subsection (a) is held invalid, the tax under subsection (a) shall apply to that portion of the taxpayer's entire net income for the taxable year which is attributable to the net income from the sources specified in such subsection.

SEC. 502. CREDIT FOR OTHER TAXES ON INCOME.

There shall be credited against the total amount of the taxes imposed by this title an amount equivalent to the excess of—

(a) The amount of the other Federal income and excess-profits taxes payable by the taxpayer for the taxable year, over

(b) The amount of the other Federal income and excess-profits taxes which would have been payable by the taxpayer for the taxable year if his net income were decreased by the amount of net income taxable under this title.

SEC. 503. ADMINISTRATIVE PROVISIONS.

(a) All provisions of law (including penalties) applicable with respect to taxes imposed by Title I of this Act, shall, insofar as not inconsistent with this title, be applicable with respect to the taxes imposed by this title, except that the provisions of sections 101, 131, 251, and 252 shall not be applicable.

(b) Every person (1) upon whom a Federal excise tax was imposed but not paid, or (2) who received any reimbursement specified in subsection (a) (2), or (3) who received a refund or credit of Federal excise tax, shall make a return under this title, which return shall contain such information and be made in such manner as the Commissioner, with the approval of the Secretary, shall prescribe. For any taxable year ended prior to the date of the enactment of this Act the return shall be filed, and the total amount of the taxes shall be paid, not later than the fifteenth day of the third month after the date of the enactment of this Act, in lieu of the time otherwise prescribed by law.

(c) If the Commissioner finds that the payment, on the date prescribed for the payment thereof, of any part of the amount determined by the taxpayer as the tax under this title, or of any deficiency with respect thereto, would impose undue hardship upon the taxpayer, the Commissioner may grant an extension for the payment of any such part for a period not in excess of three years. In such case the amount with respect to which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount with respect to which the extension is granted, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the amount with respect to which the extension is granted in accordance with the terms of the extension. There shall be collected, as a part of any amount with respect to which an extension is granted, interest thereon at the rate of 6 per centum per annum from the expiration of six months after the due date thereof to the expiration of the period of the extension.

SEC. 504. TAXABLE YEARS TO WHICH TITLE IS APPLICABLE.

The taxes imposed by this title shall apply only with respect to taxable years ending during the calendar year 1935 and to subsequent taxable years.

SEC. 505. APPLICATION OF TITLE TO POSSESSIONS.

With respect to the following income, the tax under this title shall be in force in any possession of the United States (including the Philippine Islands); such tax shall (without regard to the residence or citizenship or place of organization of the taxpayer) be collected by the appropriate internal-revenue officers of such possession; and the proceeds thereof shall accrue to the general government of such possession: (a) Any income specified in subsection (a) (1) or (3) of section 501 if the Federal excise tax with respect to the articles in question accrued in such possession; and (b) any income specified in subsection (a) (2) of section 501 if the reimbursement specified therein relates to articles sold in such possession by the taxpayer under this title and if the geographical scope of the Federal excise tax in question extended to such possession. Income taxable as provided in this section shall not be otherwise taxable under this title. In applying section 501 to such income,

the gross income and deductions shall be determined in accordance with the Federal Revenue Act applicable to the taxable year. In applying section 502 to such income, income taxes paid to such possession shall be deemed to be Federal income taxes.

SEC. 506. CLOSING AGREEMENTS.

Any person who is liable for the tax imposed by this title and who has filed any claim or claims for refund of any amount paid or collected as tax under the Agricultural Adjustment Act, as amended, may apply to the Commissioner of Internal Revenue for an adjustment of such liability for tax in conjunction with such claim or claims for refund, and thereafter, the Commissioner, for such purposes, may, in his discretion, consider such liability and such claim or claims as one case and, in his discretion, may enter into a written agreement with such person for the settlement of such case by such payment by, or refund to, such person as may be specified in such agreement. Such agreement shall be a final settlement of the liability for tax and the claim or claims for refund covered by such agreement, except in case of fraud, malfeasance, or misrepresentation of a material fact. In the absence of fraud or mistake in mathematical calculation, any action taken or any consideration given by the Commissioner pursuant to this section shall not be subject to review by any court, or any administrative, or accounting officer, employee, or agent of the United States.

TITLE IV—EXPORT, CHARITABLE, ETC., REFUNDS AND FLOOR STOCKS ADJUSTMENT UNDER AGRICULTURAL ADJUSTMENT ACT

SEC. 601. REFUNDS UNDER AGRICULTURAL ADJUSTMENT ACT ON EXPORTS, DELIVERIES FOR CHARITABLE DISTRIBUTION OR USE, ETC.

(a) The provisions of sections 10 (d), 15 (a), 15 (c), 16 (e) (1), 16 (e) (3), and 17 (a) of the Agricultural Adjustment Act, as amended, are hereby reenacted but only for the purpose of allowing refunds in accordance therewith in cases where the delivery for charitable distribution or use, or the exportation, or the manufacture of large cotton bags, or the decrease in the rate of the processing tax (or its equivalent under section 16 (e) (3)), took place prior to January 6, 1936.

(b) Except for refunds under section 15 (a) of the Agricultural Adjustment Act, as reenacted herein, no refund under this section shall be made to the processor or other person who paid or was liable for the tax with respect to the articles on which the claim is based. No refund under this section shall be allowable to any person with respect to any articles where such person prior to January 6, 1936, paid an amount as tax under the Agricultural Adjustment Act, as amended, by taking as a credit against such amount an amount otherwise allowable as a refund with respect to such articles under sections 15 (a), 15 (c), 16 (e) (1), 16 (e) (3), or 17 (a) of said Act. No refund under this section shall be allowed to any person except to the extent that he establishes that he has not received, and is not

entitled to receive, reimbursement of such amount from the processor or other vendor with respect to the articles on which the claim is based. No claim under this section (except claims of processors under section 15 (a)) shall be disallowed on the ground that the tax with respect to the article or the commodity from which processed has not been paid.

(c) No refund under this section shall be made unless the claimant files a claim therefor prior to January 1, 1937, under rules and regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, and no claim shall be allowed in an amount less than \$10. Sections 16 (g) and 21 (f) of the Agricultural Adjustment Act, as amended, are repealed.

(d) In the absence of fraud, the findings of fact and the decision of the Commissioner of Internal Revenue upon the merits of any claim adjusted pursuant to this section and the mathematical calculation therein shall not be subject to review by any administrative or accounting officer, employee, or agent of the United States.

(e) The determination of the Commissioner of Internal Revenue with respect to any refund under this section shall be final and no court shall have jurisdiction to review such determination.

(f) No interest shall be allowed in connection with any refund made under this section.

(g) Section 16 (e) (1) of the Agricultural Adjustment Act, as reenacted by subsection (a) of this section, is amended by striking out "subsequent to June 26, 1934" and by inserting in lieu thereof "on or after June 1, 1934".

SEC. 602. FLOOR STOCKS AS OF JANUARY 6, 1936.

(a) There shall be paid to any person who, at the first moment of January 6, 1936, held for sale or other disposition (including manufacturing or further processing) any article processed wholly or in chief value from a commodity subject to processing tax, an amount computed as provided in subsection (b), except that no such payment shall be made to the processor or other person who paid or was liable for the tax with respect to the articles on which the claim is based.

(b) The amount of the payment under subsection (a) shall be equal to the processing tax which would have been payable with respect to the commodity from which the article was processed, if it had been processed on January 5, 1936, but not in excess of (1) the amount of the burden of the tax with respect to the article which was shifted to the claimant in the price he paid for the article (to the extent that the claimant has not received and is not entitled to receive reimbursement for such burden from the processor or other vendor) and not in excess of (2) the amount of that part of the burden of the tax applicable to the articles held on January 6, 1936, which the claimant has not passed on to his vendees and has not included in the sale price of such articles. In lieu of a detailed schedule of articles, purchases, sale prices, and sales under clauses (1) and (2) of this subsection, the claimant may (subject to the approval of the Commissioner and such investigations as he may cause to be made) submit, as a part of his claim, an affidavit setting forth the total amount of tax burden passed on to him on the articles with respect to which claim is made; the total amount of such burden

for which he has received or is entitled to receive reimbursement from the processor or other vendor; the total amount of such burden that he has passed on to his vendee or has included in the sale prices of such articles; and the total amount of such burden that he has borne himself.

(c) As used in this section—

(1) The term "commodity subject to a processing tax" means a commodity upon the processing of which a tax was provided for under the Agricultural Adjustment Act, as amended, as of January 5, 1936.

(2) The term "tax with respect to the article" means any tax under the Agricultural Adjustment Act, as amended, with respect to the article (or with respect to any commodity or other article from which it was processed).

(3) The term "sale price" includes the price at which the claimant actually sold the article or articles prior to the date of the filing of his claim or, if the article or articles have not been sold, the price at which he is offering the same for sale on the date of the filing of his claim.

(d) No payment shall be made under this section unless the claimant files a claim therefor prior to January 1, 1937, in conformity with regulations prescribed by the Commissioner with the approval of the Secretary, nor unless he establishes to the satisfaction of the Commissioner the facts on which such claim is based.

(e) No claim under this section shall be disallowed on the ground that the tax with respect to the article or the commodity from which processed has not been paid, but no claim shall be allowed in an amount less than \$10. No payment shall be made under this section in connection with any article with respect to which a refund has been allowed or credit has been taken under the Agricultural Adjustment Act, as amended, or a refund has been allowed or is allowable under section 601 of this title.

(f) No payment shall be made under this section with respect to articles held in retail floor stocks except (1) flour, prepared flour, cereal preparations, and gluten, made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, promulgated under the Agricultural Adjustment Act and the amendments thereto, (2) articles processed wholly or in chief value from cotton, and (3) direct-consumption sugar processed from sugar beets or sugarcane. No payment under this section shall be made with respect to articles processed from wheat, sugar beets, or sugarcane held in other than retail stocks except (1) flour, prepared flour, cereal preparations, and gluten, made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and (2) direct-consumption sugar.

(g) In the case of articles which were agreed to be sold under a contract entered into prior to January 6, 1936, whereby the vendee agreed to pay a price including the amount of the tax with respect to the articles, but which were not delivered prior to such date, the vendee shall be considered the holder of such articles.

(h) In the absence of fraud the findings of fact and the decision of the Commissioner upon the merits of any claim under this section, and the mathematical calculation therein shall not be subject to

review by any other administrative or accounting officer, employee, or agent of the United States.

(i) The determination of the Commissioner with respect to any payment under this section shall be final and no court shall have jurisdiction to review such determination.

(j) No interest shall be allowed in connection with any payment made under this section.

SEC. 602. PROCLAMATIONS, ETC., MADE APPLICABLE.

The proclamations, certificates, and regulations prescribed by the Secretary of Agriculture under the Agricultural Adjustment Act, as amended, in effect on January 5, 1936, insofar as not inconsistent with this Act, are hereby made applicable for the purpose of determining the amount of any refund or payment authorized under sections 601 and 602.

TITLE V—AMENDMENTS TO TAXES ON CERTAIN OILS

SEC. 701. TAX ON CERTAIN OILS.

The first sentence of section 601 (c) (8) of the Revenue Act of 1932, as amended, is amended to read as follows:

"(8) Whale oil (except sperm oil), fish oil (except cod oil, cod-liver oil, and halibut-liver oil), marine-animal oil, tallow, inedible animal oils, inedible animal fats, inedible animal greases, fatty acids derived from any of the foregoing, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphated, sulphated, hydrogenated, or otherwise processed, 3 cents per pound; sesame oil provided for in paragraph 1732 of the Tariff Act of 1930, sunflower oil, rapeseed oil, kapok oil, hempseed oil, perilla oil, fatty acids derived from any of the foregoing or from linseed oil, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphated, sulphated, hydrogenated, or otherwise processed, 4½ cents per pound; any article, merchandise, or combination (except oils specified in section 602½ of the Revenue Act of 1934, as amended), 10 per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the products specified above in this paragraph or in section 602½ of the Revenue Act of 1934, as amended, a tax at the rate or rates per pound equal to that proportion of the rate or rates prescribed in this paragraph or such section 602½ in respect of such product or products which the quantity by weight of the imported article, merchandise, or combination, consisting of or derived from such product or products, bears to the total weight of the imported article, merchandise, or combination; hempseed, perilla seed, rapeseed, sesame seed, and kapok seed, 2 cents per pound."

SEC. 702. PROCESSING TAX ON CERTAIN OILS.

(a) The first sentence of section 602½ of the Revenue Act of 1934 is amended to read as follows:

"(a) There is hereby imposed upon the first domestic processing of coconut oil, palm oil, palm-kernel oil, fatty acids derived from any

of the foregoing oils, salts of any of the foregoing (whether or not such oils, fatty acids, or salts have been refined, sulphonated, sulphated, hydrogenated, or otherwise processed), or any combination or mixture containing a substantial quantity of any one or more of such oils, fatty acids, or salts, a tax of 3 cents per pound to be paid by the processor, but the tax under this section shall not apply (1) with respect to any fatty acid or salt resulting from a previous first domestic processing taxed under this section or upon which an import tax has been paid under section 601 (c) (8) of the Revenue Act of 1932, as amended, or (2) with respect to any combination or mixture by reason of its containing an oil, fatty acid, or salt with respect to which there has been a previous first domestic processing or upon which an import tax has been paid under such section 601 (c) (8)."

(b) Notwithstanding the provisions of subsection (a) of this section, the first domestic processing of sunflower oil or sesame oil (or any combination or mixture containing a substantial quantity of sunflower oil or sesame oil), if such oil or such combination or mixture or such oil contained therein was imported prior to the effective date of this title, shall be taxed in accordance with the provisions of section 602½ of the Revenue Act of 1934 in force on the date of the enactment of this Act.

SEC. 703. MISCELLANEOUS PROVISIONS.

Nothing in section 601 (c) (8) of the Revenue Act of 1932, as amended, shall be construed as imposing a tax in contravention of an obligation undertaken in any trade agreement heretofore entered into under the authority of section 350 of the Tariff Act of 1930, as amended, or as imposing a tax on the importation of glycerin or stearine pitch or on the importation of any article by reason of any component of such article derived directly or indirectly from a waste not named in section 601 (c) (8) of the Revenue Act of 1932, as amended. Section 402 of the Revenue Act of 1935 is hereby repealed. All taxes accrued or paid under section 402 of the Revenue Act of 1935 on the importation of glycerin or stearine pitch shall be remitted or refunded under such regulations as the Secretary of the Treasury may prescribe.

SEC. 704. EFFECTIVE DATE.

The provisions of this title shall be effective on and after the sixtieth day following the date of the enactment of this Act.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 501. EXEMPTION FROM ADMISSIONS TAX OF CERTAIN CONCERTS.

Section 500 (b) (2) of the Revenue Act of 1926 is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and any admissions to concerts conducted by a civic or community membership association if no part of the net earnings thereof inures to the benefit of any stockholders or members of such association."

SEC. 502. SUITS TO ENFORCE LIENS FOR TAXES.

(a) Section 5207 (a) of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 5207. (a) In any case where there has been a refusal or neglect to pay any tax, and it has become necessary to seize and sell property and rights to property, whether real or personal, to satisfy the same, whether distraint proceedings have been commenced or not, the Attorney General at the request of the Commissioner of Internal Revenue may direct a bill in chancery to be filed, in a district court of the United States, to enforce the lien of the United States for tax upon any property and rights to property, whether real or personal, or to subject any such property and rights to property owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. All persons having liens upon or claiming any interest in the property or rights to property sought to be subjected as aforesaid shall be made parties to such proceedings and be brought into court as provided in other suits in chancery therein. And the said court shall, at the term next after the parties have been duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property and rights to property in question, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property and rights to property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States. In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Commissioner of Internal Revenue during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity."

(b) No suit brought by the United States to enforce any lien for tax on any property, or rights to property, whether real or personal, which is pending in any court of the United States on the date of the enactment of this Act, shall abate, but any such suit shall be continued in accordance with the provisions of subsection (a) of this section.

SEC. 503. INTEREST ON ERRONEOUS REFUNDS.

(a) Section 610 of the Revenue Act of 1928, as amended, is amended by adding at the end thereof a new subsection to read as follows:

"(d) Erroneous refunds recoverable by suit under this section shall bear interest at the rate of 6 per centum per annum from the date of the payment of the refund."

SEC. 504. INTEREST ON OVERPAYMENTS.

Section 614 (a) (2) of the Revenue Act of 1928 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The

acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon."

SEC. 805. ESTATE TAXES—REVOCABLE TRANSFERS.

(a) Section 302 (d) (1) of the Revenue Act of 1936, as amended, is amended to read as follows:

"(d) (1) To the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona-fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power (in whatever capacity exercisable) by the decedent alone or by the decedent in conjunction with any other person (without regard to when or from what source the decedent acquired such power), to alter, amend, revoke, or terminate, or where any such power is relinquished in contemplation of decedent's death."

(b) Except in the case of transfers made after the date of the enactment of this Act, no interest of the decedent of which he has made a transfer shall be included in the gross estate under such section 302 (d) (1) unless it was includible under such section before its amendment by this section.

SEC. 806. REGISTRATION UNDER THE NARCOTIC LAWS.

(a) The fourth paragraph of section 1 of the Act entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes", approved December 17, 1914, as amended (38 Stat. 785), is amended to read as follows:

"Importers, manufacturers, producers, or compounders, lawfully entitled to import, manufacture, produce, or compound any of the aforesaid drugs, \$24 per annum; wholesale dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, \$12 per annum; retail dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, \$3 per annum; physicians, dentists, veterinary surgeons, and other practitioners, lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, \$1 per annum or fraction thereof during which they engage in any of such activities; persons not registered as an importer, manufacturer, producer, or compounder and lawfully entitled to obtain and use in a laboratory any of the aforesaid drugs for the purpose of research, instruction, or analysis shall pay \$1 per annum, but such persons shall keep such special records relating to receipt, disposal, and stocks on hand of the aforesaid drugs as the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, may by regulation require. Such special records shall be open at all times to the inspection of any duly authorized officer, employee, or agent of the Treasury Department."

(b) The second proviso of section 6 of the said Act of December 17, 1914, as amended, is amended by inserting after the words "men-

tioned in this section" the following: "lawfully entitled to manufacture, produce, compound, or vend such preparations and remedies."

(c) This section shall take effect on July 1, 1936.

SEC. 807. RECONSIDERATION OF REFUND CLAIMS.

(a) Section 8220 of the Revised Statutes, as amended, is amended by adding at the end thereof the following new sentence: "Any consideration, reconsideration, or action by the Commissioner with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun."

(b) The amendment made by subsection (a) shall not operate (1) to bar a suit or proceeding in respect of a claim reopened prior to the date of the enactment of this Act, if such suit or proceeding was not barred under the law in effect prior to the date of the enactment of this Act, or (2) to prevent the suspension of the statute of limitations for filing suit under section 608 (b) (2), as amended, of the Revenue Act of 1928.

SEC. 808. INTEREST ON JUDGMENTS.

Section 177 (b) of the Judicial Code, as amended, is amended to read as follows:

"(b) In any judgment of any court rendered (whether against the United States, a collector or deputy collector of internal revenue, a former collector or deputy collector, or the personal representative in case of death) for any overpayment in respect of any internal-revenue tax, interest shall be allowed at the rate of 6 per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the Commissioner of Internal Revenue. The Commissioner is hereby authorized to tender by check payment of any such judgment, with interest as herein provided, at any time after such judgment becomes final, whether or not a claim for such payment has been duly filed, and such tender shall stop the running of interest, whether or not such refund check is accepted by the judgment creditor."

SEC. 809. TERMINATION OF JEWELRY TAX.

The tax imposed by section 605 of the Revenue Act of 1932 shall not apply to any article sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 810. TAX ON FURS.

(a) Effective after the date of the enactment of this Act, section 604 of the Revenue Act of 1932 is amended by striking out "10 per centum" and inserting in lieu thereof "3 per centum".

(b) The exemption of articles sold for less than \$75, provided by section 608 of the Revenue Act of 1934, shall not apply to articles sold after the date of the enactment of this Act.

SEC. 811. IMPORTATION OF SHINGLES.

Whenever any organization or association representing the producers of more than 75 per centum of the red cedar shingles produced in the United States during the previous half-year period shall request the President to limit the importation of red cedar shingles from Canada under paragraph 1760 of the reciprocal trade agreement entered into with the Dominion of Canada under date of November 15, 1935, and the President finds from available statistics that the total quantity of red cedar shingles produced in the Dominion of Canada which is entered, or withdrawn from warehouse, for consumption in the United States, during any given half of any calendar year exceeds or will exceed 25 per centum of the combined total of the shipments of red cedar shingles by producers in the United States and the imports during the preceding half year, the President shall issue an order limiting for the six months immediately following the half of the calendar year in which said excess occurred, the quantity of red cedar shingles to be imported from Canada to 25 per centum of the combined total of the shipments and imports of red cedar shingles for such preceding half calendar year. The President shall issue a new order for each half of the calendar year thereafter during the continuation of the operation of the reciprocal trade agreement entered into with the Dominion of Canada, under date of November 15, 1935, with the same limitations as hereinbefore set forth.

TITLE VII—REFUNDS OF AMOUNTS COLLECTED UNDER THE AGRICULTURAL ADJUSTMENT ACT

SEC. 901. REPEALS.

Sections 21 (d), 21 (e), and 21 (g) of the Agricultural Adjustment Act, as amended, are hereby repealed.

SEC. 902. CONDITIONS ON ALLOWANCE OF REFUNDS.

No refund shall be made or allowed, in pursuance of court decisions or otherwise, of any amount paid by or collected from any claimant as tax under the Agricultural Adjustment Act, unless the claimant establishes to the satisfaction of the Commissioner in accordance with regulations prescribed by him, with the approval of the Secretary, or to the satisfaction of the trial court, or the Board of Review in cases provided for under section 906, as the case may be—

(a) That he bore the burden of such amount and has not been relieved thereof nor reimbursed therefor nor shifted such burden, directly or indirectly, (1) through inclusion of such amount by the claimant, or by any person directly or indirectly under his control, or having control over him, or subject to the same common control, in the price of any article with respect to which a tax was imposed under the provisions of such Act, or in the price of any article processed from any commodity with respect to which a tax was imposed under such Act, or in any charge or fee for services or processing; (2) through reduction of the price paid for any such

commodity; or (3) in any manner whatsoever; and that no understanding or agreement, written or oral, exists whereby he may be relieved of the burden of such amount, be reimbursed therefor, or may shift the burden thereof; or

(b) That he has repaid unconditionally such amount to his vendee (1) who bore the burden thereof, (2) who has not been relieved thereof nor reimbursed therefor, nor shifted such burden, directly or indirectly, and (3) who is not entitled to receive any reimbursement therefor from any other source, or to be relieved of such burden in any manner whatsoever.

SEC. 903. FILING OF CLAIMS.

No refund shall be made or allowed of any amount paid by or collected from any person as tax under the Agricultural Adjustment Act unless, after the enactment of this Act, and prior to July 1, 1937, a claim for refund has been filed by such person in accordance with regulations prescribed by the Commissioner with the approval of the Secretary. All evidence relied upon in support of such claim shall be clearly set forth under oath. The Commissioner is authorized to prescribe by regulations, with the approval of the Secretary, the number of claims which may be filed by any person with respect to the total amount paid by or collected from such person as tax under the Agricultural Adjustment Act, and such regulations may require that claims for refund of processing taxes with respect to any commodity or group of commodities shall cover the entire period during which such person paid such processing taxes.

SEC. 904. STATUTE OF LIMITATIONS.

Notwithstanding any other provision of law, no suit or proceeding, whether brought before or after the date of enactment of this Act, shall be brought or maintained in any court for the recovery, recoupment, set-off, refund, or credit of, or counterclaim for, any amount paid by or collected from any person as tax (except processing tax, as defined herein) under the Agricultural Adjustment Act (a) before the expiration of eighteen months from the date of filing a claim therefor under this title, unless the Commissioner renders a decision thereon within that time, or (b) after the expiration of two years from the date of mailing by registered mail by the Commissioner to the claimant a notice of disallowance of that part of the claim to which such suit or proceeding relates. Any consideration or any action by the Commissioner with respect to such claim following the mailing of notice of disallowance shall not operate to extend the period within which any suit or proceeding may be brought.

SEC. 905. JURISDICTION OF COURTS.

Concurrent with the Court of Claims, the District Courts of the United States (except as provided in section 906 of this title) shall have jurisdiction of cases to which this title applies, regardless of the amount in controversy, if such district courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy. The United States Customs Court shall not have jurisdiction of any such cases.

SEC. 906. PROCEDURE ON CLAIMS FOR REFUNDS OF PROCESSING TAXES.

(a) Notwithstanding any other provision of law, no suit or proceeding, whether brought before or after the date of the enactment of this Act, shall be brought or maintained in any court for the refund of any amount paid or collected as processing tax, as defined herein, under the Agricultural Adjustment Act, except as provided in this section. The Commissioner shall allow or disallow, in whole or in part, any claim for refund of any such amount within three years after such claim was filed, unless such time has been extended by written consent of the claimant.

(b) There is hereby established in the Treasury Department a Board of Review (hereinafter referred to as "the Board"). The Board shall be composed of nine members who shall be officers or employees of the Treasury Department designated by the Secretary of the Treasury. One of such members shall be designated by the Secretary to act as chairman of the Board. The chairman may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member designate the chief thereof. A majority of the members of the Board or of any division thereof shall constitute a quorum for the transaction of the business of the Board or of the division respectively. A vacancy in the Board or in any division thereof shall not impair the powers nor affect the duties of the Board or division nor of the remaining members of the Board or division respectively. The Secretary of the Treasury shall assign to the Board such personnel in the Treasury Department as may be necessary to perform its functions. The Board shall have jurisdiction in proceedings under this section to review the allowance or disallowance of the Commissioner of a claim for refund, and to determine the amount of refund due any claimant with respect to such claim. The Commissioner shall make refund of any such amount determined by a decision of the Board which has become final. The proceedings of the Board and its divisions shall be conducted in accordance with such rules and regulations as the Board may prescribe, with the approval of the Secretary.

(c) The allowance or disallowance of the Commissioner of a claim for refund under this section shall be final, unless within three months after the date of mailing by registered mail by the Commissioner of notice that a claim for refund of any such amount has been disallowed, in whole or in part, the claimant files a petition with the Board requesting a hearing on the merits of his claim, in whole or in part. Upon the filing of any such petition, the claimant shall be entitled to a hearing as provided herein, and within three months after the date of such filing the Board shall set a date for such hearing which shall be not more than two years from the date of filing of the petition. Such hearing shall be held in Washington, District of Columbia, or in the collection district in which is located the principal place of business of the claimant, as the claimant may designate in his petition, or in any place which may be designated by the Commissioner and the claimant by stipulation in writing, and may be continued from day to day. The Board shall notify

the claimant and the Commissioner of the time and place set for such hearing by registered mail.

(d) Each such hearing shall be conducted by a presiding officer who shall be a member of the Board or an officer or employee of the Treasury Department designated a presiding officer by the Secretary of the Treasury, and assigned by the Board to preside at such hearing, and shall be open to the public. The proceedings in such hearings shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Board may prescribe with the approval of the Secretary of the Treasury, and in accordance with the rules of evidence applicable in courts of equity of the District of Columbia. The claimant and the Commissioner shall be entitled to be represented by counsel, to have witnesses subpoenaed, and to examine and cross-examine witnesses. The presiding officer shall have authority to administer oaths, examine witnesses, rule on questions of procedure and the admissibility of evidence, and to require by subpoena, signed by any member of the Board, the attendance and testimony of witnesses, and the production of all necessary returns, books, papers, records, correspondence, memoranda, and other evidences, from any place in the United States at any designated place of hearing, and to require the taking of a deposition by any designated individual competent to administer oaths. Any witness summoned or whose deposition is taken pursuant to this section shall receive the same fees and mileage as witnesses in the courts of the United States.

(e) The presiding officers shall recommend findings of fact and a decision to the Board or the proper division thereof within six months after the conclusion of the hearing. Briefs with respect to such recommendations may be submitted to the Board or such division on behalf of the Commissioner and the claimant within thirty days after such recommendations have been made, unless such time is extended by the Board or such division. Except upon specific order of the chairman of the Board, no oral argument may be presented to the Board or such division after the conclusion of the hearing. The Board or a division shall make its findings of fact and decision in writing as quickly as practicable. The findings of fact and the decision of a division shall become the findings of fact and decision of the Board within thirty days after they have been made by the division, unless within such period, the chairman has directed that such findings and decision shall be reviewed by the Board. The findings and decision of a division shall not be a part of the record in any case in which the chairman directs that such findings and decision shall be reviewed by the Board. Copies of the findings of fact and decision of the Board shall be mailed to the claimant and the Commissioner by registered mail.

(f) The Board, with the approval of the Secretary of the Treasury, is authorized to draw up a table of costs and fees relating to such hearings, and the preparation of transcripts of record thereof, not to exceed with respect to any one item those charged in the Supreme Court of the United States. Such costs and fees shall be paid by the claimant and be collected in accordance with such rules and regulations as may be prescribed by the Board, with the approval of the Secretary. If the hearing provided herein results in

a modification of the allowance or disallowance of the Commissioner, such costs shall be returned to the claimant.

(g) A review of the decision of the Board, made after the hearing provided in this section, may be obtained by the claimant or Commissioner by filing a petition for review in the Circuit Court of Appeals of the United States within any circuit wherein such claimant resides, or has his principal place of business, or, if none, in the United States Court of Appeals for the District of Columbia, or any such court which may be designated by the Commissioner and the claimant by stipulation in writing, within three months after the date of the mailing to the claimant and the Commissioner of the copy of the findings and decision of the Board. A copy of such petition shall forthwith be served upon the Commissioner or upon any officer designated by him for that purpose, or upon the claimant, according to which party files such petition, and upon the Board. Thereupon the Board shall certify and file in the court, in which such petition has been filed, a transcript of the record upon which the findings and decision complained of were based. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm the decision of the Board, or to modify or reverse such decision, if it is not in accordance with law, with or without remanding the cause for a rehearing, as justice may require. No objection shall be considered by the court unless such objection shall have been urged before the Board or division and the presiding officer, or unless there were reasonable grounds for failure so to do. If the claimant or the Commissioner shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material, and that there were reasonable grounds for failure to adduce such evidence in the hearing before the presiding officer, the court may order such additional evidence to be taken before such officer, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings of fact and decision by reason of the additional evidence so taken and it shall file with the court such modified or new findings and decision. The judgment of the court shall be final, subject to review by the Supreme Court of the United States, upon certification or certiorari as provided in sections 239 and 240 of the Judicial Code, as amended. Such courts are authorized to adopt rules for the filing of petitions for review, the preparation of the record for review, and the conduct of the proceedings on review. If the decision of the Board is affirmed, costs shall be awarded against the claimant, and if such decision is reversed, the judgment shall provide for a refund of any costs paid by the claimant. In case of modification of such decision costs shall be awarded or refused as justice may require. The decision of the Board made after the hearing provided herein shall become final in the same manner that decisions of the Board of Tax Appeals become final under section 1005 of the Revenue Act of 1926, as amended.

SEC. 907. EVIDENCE AND PRESUMPTIONS.

(a) Where the refund claimed is for an amount paid or collected as processing tax, as defined herein, it shall be prima-facie evidence

that the burden of such amount was borne by the claimant to the extent (not to exceed the amount of the tax) that the average margin per unit of the commodity processed was lower during the tax period than the average margin was during the period before and after the tax. If the average margin during the tax period was not lower, it shall be prima-facie evidence that none of the burden of such amount was borne by the claimant but that it was shifted to others.

(b) The average margin for the tax period and the average margin for the period before and after the tax shall each be determined as follows:

(1) **TAX PERIOD.**—The average margin for the tax period shall be the average of the margins for all months (or portions of months) within the tax period. The margin for each such month shall be computed as follows: From the gross sales value of all articles processed by the claimant from the commodity during such month, deduct the cost of the commodity processed during the month and deduct the processing tax paid with respect thereto. The sum so ascertained shall be divided by the total number of units of the commodity processed during such month, and the resulting figure shall be the margin for the month.

(2) **PERIOD BEFORE AND AFTER THE TAX.**—The average margin for the period before and after the tax shall be the average of the margins for all months (or portions of months) within the period before and after the tax. The margin for each such month shall be computed as follows: From the gross sales value of all articles processed by the claimant from the commodity during such month, deduct the cost of the commodity processed during the month. The sum so ascertained shall be divided by the number of units of the commodity processed during such month, and the resulting figure shall be the margin for the month.

(3) **AVERAGE MARGIN.**—The average margin for each period shall be ascertained in the same manner as monthly margins under subdivisions (1) and (2), using total gross sales value, total cost of commodity processed, total processing tax paid, and total units of commodity processed, during such period.

(4) **COMBINATION OF COMMODITIES.**—Where, as, for example, in the case of certain types of tobacco, the articles produced and sold by the claimant are the product of several commodities combined by him during processing, the average margins shall be established with respect to such commodities as a group, and not individually, in accordance with rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

(5) **COST OF COMMODITY.**—The cost of commodity processed during each month shall be (a) the actual cost of the commodity processed if the accounting procedure of the claimant is based thereon, or (b) the product computed by multiplying the quantity of the commodity processed by the current prices at the time of processing for commodities of like quality and grade in the markets where the claimant customarily makes his purchases.

(6) **GROSS SALES VALUE OF ARTICLES.**—The gross sales value of articles shall mean (a) the total of the quantity of each article

derived from the commodity processed by the claimant during each month multiplied by (b) the claimant's sale prices current at the time of processing for articles of similar grade and quality.

(7) The quantity of each article derived from the commodity processed may be either (a) the actual quantity obtained, as shown by the records of the claimant, or (b) an estimated quantity computed by multiplying the quantity of commodity processed by appropriate conversion factors giving the quantity of articles customarily obtained from the processing of each unit of the commodity.

(c) The "tax period" shall mean the period with respect to which the claimant actually paid the processing tax to a collector of internal revenue and shall end on the date with respect to which the last payment was made. The "period before and after the tax" shall mean the twenty-four months (except that in the case of tobacco it shall be the twelve months) immediately preceding the effective date of the processing tax, and the six months, February to July, 1936, inclusive. If during any part of such period the claimant was not in business, or if his records for any part of such period are so inadequate as not to provide satisfactory data on prices paid for commodities purchased or prices received for articles sold, the average prices paid or received by representative concerns engaged in a similar business and similarly circumstanced may with the approval of the Commissioner, where necessary for a fair comparison, be substituted in making the necessary computations. If the claimant was not in business during the entire period before and after the tax, the average margin, during such period, of representative concerns engaged in a similar business and similarly circumstanced, as determined by the Commissioner, shall be used as his average margin for such period.

(d) If the claimant made any purchase or sale otherwise than through an arm's-length transaction, and at a price other than the fair market price, the Commissioner may determine the purchase or sale price to be that for which such purchases or sales were at that time made in the ordinary course of trade.

(e) Either the claimant or the Commissioner may rebut the presumption established by subsection (a) of this section by proof of the actual extent to which the claimant shifted to others the burden of the processing tax. Such proof may include, but shall not be limited to—

(1) Proof that the difference or lack of difference between the average margin for the tax period and the average margin for the period before and after the tax was due to changes in factors other than the tax. Such factors shall include any clearly shown change (A) in the type or grade of article or commodity, or (B) in costs of production. If the claimant asserts that the burden of the tax was borne by him and the burden of any other increased costs was shifted to others, the Commissioner shall determine, from the effective dates of the imposition or termination of the tax and the effective date of other changes in costs as compared with the date of the changes in margin (when margins are computed for weeks, months, or other intervals between July 1, 1931, and August, 1936, in the manner specified in subsection (b)), and

from the general experience of the industry, whether the tax or the increase in other costs was shifted to others. If the Commissioner determines that the difference in average margin was due in part to the tax and in part to the increase in other costs, he shall apportion the change in margin between them;

(2) Proof that the claimant modified existing contracts of sale, or adopted a new form of contract of sale, to reflect the initiation, termination, or change in amount of the processing tax, or at any such time changed the sale price of the article (including the effect of a change in size, package, discount terms, or any other merchandising practice) by substantially the amount of the tax or change therein, or at any time billed the tax as a separate item to any vendee, or indicated by any writing that the sale price included the amount of the tax, or contracted to refund any part of the sale price in the event of recovery of the tax or decision of its invalidity; but the claimant may establish that such acts were caused by factors other than the processing tax, or that they do not represent his practice at other times. If the claimant processed any product in addition to the commodity with respect to the processing of which there was paid or collected an amount as tax for which he claims a refund, and if the Commissioner has reason to believe that the burden of such amount was shifted in whole or in part by means of the transactions relating to such product, the average margin with respect to such product, and articles processed therefrom, shall also be considered, and shall be determined for the tax period applicable to the commodity and for the period before and after the tax in the manner prescribed in subsection (b) of this section. To the extent the Commissioner determines that the average margin with respect to such product was higher during the tax period than it was during the period before and after the tax, it shall be prima-facie evidence that such amount was not borne by the claimant but that it was shifted to others.

SEC. 904. LIMITATIONS ON ALLOWANCE OF CLAIMS AND INTEREST.

(a) No claim shall be allowed under this title in an amount less than \$10.

(b) No interest shall be allowed by the Commissioner or by any court with respect to any amount paid or collected as tax under the Agricultural Adjustment Act, except with respect to amounts, refund of which is made or allowed under this title.

SEC. 905. LIMITATIONS ON REVIEW.

In the absence of fraud or mistake in mathematical calculation, the findings of fact and conclusions of law of the Commissioner upon the merits of any claim presented under this title shall not be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

SEC. 916. LIABILITY OF COLLECTORS.

No collector of internal revenue or customs, or internal revenue or customs officer or employee, shall be in any way liable to any person for any act done by him in the assessment or collection of

any amount as tax under the Agricultural Adjustment Act, or for the recovery of any money exacted by or paid to him and paid into the Treasury, in performance of his official duties under the provisions of such Act, or if such collector or officer acted under the direction of the Secretary or other proper officer of the Government.

SEC. 911. INAPPLICABILITY TO CERTAIN REFUNDS.

The provisions of this title shall not apply to any refund authorized under the provisions of sections 15, 16, or 17 of the Agricultural Adjustment Act, as amended and reenacted, or with respect to any articles exported under the provisions of section 317 of the Tariff Act of 1930. No refund shall be made or allowed of any amount paid or collected as tax under the Agricultural Adjustment Act, as amended and reenacted, to the extent that refund or credit with respect to such amount has been made to any person.

SEC. 912. PERIOD NOT EXTENDED.

Any suit or proceeding with respect to any amount paid or collected as tax under the Agricultural Adjustment Act which is barred on the date of enactment of this Act shall remain barred. No claim with respect to any such amount which is barred from allowance at the time of the enactment of this Act shall hereafter be allowed in any amount.

SEC. 913. DEFINITIONS.

When used in this title—

(a) The term "tax" means a tax or exaction denominated a "tax" under the Agricultural Adjustment Act, and shall include any penalty, addition to tax, additional tax, or interest applicable to such tax.

(b) The term "processing tax" means any tax or exaction denominated a "processing tax" under the Agricultural Adjustment Act, but shall not include any amount paid or collected as tax with respect to the processing of a commodity for a customer for a charge or fee.

(c) The term "commodity" means any commodity, prior to processing, of a type with respect to the processing of which a processing tax was imposed under the Agricultural Adjustment Act.

(d) The term "article" means the product which is obtained by processing a commodity, and includes the product obtained by further manufacture or by combination with other materials.

(e) The term "refund" includes any recovery, recoupment, set-off, credit, or counterclaim.

(f) The term "Agricultural Adjustment Act" means the Agricultural Adjustment Act as originally enacted and the amendments thereto adopted prior to January 8, 1936.

SEC. 914. AUTHORITY OF COMMISSIONER.

In connection with the establishment of the facts required to be established under this title, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Treasury Department and of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any

books, papers, records, or memoranda which are relevant and material in connection with any claim made pursuant to this title, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any person designated by him, to summon witnesses to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to any claim made pursuant to this title. The provisions of 3174 and 3175 of the Revised Statutes, as amended, shall be applicable with respect to any summons issued pursuant to the provisions of this title. Any witness summoned under this title shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this section shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and shall be removed from office.

SEC. 915. SALARIES AND ADMINISTRATIVE EXPENSES.

Funds made available to the Secretary of Agriculture by the appropriation for the fiscal year 1936 in section 32 of Public Numbered 320, 74th Congress, approved August 24, 1935, to the extent of the unobligated balance thereof; and by the appropriation in section 12 (a) of the Agricultural Adjustment Act, in an amount not in excess of \$15,000,000; shall be available until June 30, 1937, for transfer to the Treasury Department for salaries and administrative expenses in carrying out the provisions of this title and of Title IV, including necessary investigative work, and for refunds and payments under Title IV. Such funds shall be available for expenditure by the Secretary of the Treasury for personal services and rent in the District of Columbia and elsewhere, for law books, books of reference, press releases, trade journals, periodicals, and newspapers, for contracting reporting services, printing and paper in addition to allotments under the existing law, travel expenses, for mileage and per diem of witnesses, in lieu of subsistence, payment of which mileage and per diem may be made in advance upon certification of such officer as the Commissioner or the Secretary may designate, and such certification shall be conclusive. In addition to the foregoing, the administrative expenses provided for in this section shall include such miscellaneous expenses as may be authorized or approved by the Commissioner or the Secretary for carrying out the provisions of this title, including witness fees and mileage for experts, notarial fees, or like services, and stenographic work for taking depositions.

SEC. 916. RULES AND REGULATIONS.

The Commissioner shall, with the approval of the Secretary, prescribe such rules and regulations as may be deemed necessary to carry out the provisions of this title.

SEC. 917. PERSONNEL.

(a) The Secretary may appoint such officers, attorneys, economists, and other experts without regard to the Classification Act of 1923, as amended, and without regard to the civil-service laws or regulations, as are necessary to execute the functions vested in him and the Commissioner by this title. No compensation at a rate in excess of \$8,500 per annum shall be paid to any such appointee.

(b) Officers and employees of the other executive departments and establishments of the Government may, at the request of the Secretary of the Treasury, and with the approval of the head of any such department or establishment, be detailed to the Treasury Department from time to time for such temporary duties as may be necessary in carrying out the provisions of this title. The proper appropriation of such executive department or establishment from which such officers or employees are so detailed shall be reimbursed by the Treasury Department to the extent of salaries and other compensation paid to such officers and employees during the time they shall be so detailed.

TITLE VIII—GENERAL PROVISIONS

SEC. 1001. DEFINITIONS.

(a) When used in this Act—

(1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(3) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(4) The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 143 or 144.

(8) The term "stock" includes the share in an association, joint-stock company, or insurance company.

(9) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(10) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(11) The term "Secretary" means the Secretary of the Treasury.

(12) The term "Commissioner" means the Commissioner of Internal Revenue.

(13) The term "collector" means collector of internal revenue.

(14) The term "taxpayer" means any person subject to a tax imposed by this Act.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

SEC. 1002. SEPARABILITY CLAUSE.

If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

SEC. 1003. EFFECTIVE DATE OF ACT.

Except as otherwise provided, this Act shall take effect upon its enactment.

Approved, June 22, 1936, 9 p.m.

TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE June 22, 1936

TO Secretary Morgenthau
FROM Herman Oliphant

I attach copy of telephone conversation between Senator Long's secretary and myself.

This relates to the civil case against Shushan and his wife, which is in the Board of Tax Appeals.

I have given instructions that this case is not to be settled under any circumstances nor otherwise disposed of, except upon full payment of tax interest and penalty, or by trial. I have arranged that no one see anybody in connection with this case except with others present, and that verbatim stenographic reports should be made of any interviews or telephone conversations.

Whatever you say.

Mr. Christenberry:

Suppose you let the matter alone.

Mr. Oliphant:

I'll take it up with the Board, but recommend to the Secretary.

Mr. Christenberry:

Thank you so much.

Mr. Oliphant:

Thank you.

TELEPHONE CONVERSATION HELD BETWEEN SENATOR LONG'S
SECRETARY, EARL CHRISTENBERRY, AND HERMAN OLIPHANT,
JUNE 20, 1936 at 1:03 P.M.

Mr. Oliphant:

Yes.

Mr. Christenberry:

This is Earl Christenberry, Senator Long's secretary. I have had a phone call from Mr. Shushan from New Orleans; I think you have had some correspondence with him in connection with a civil case. He phoned up here and wanted to know if possibly a date for a hearing could be set with a view to settling his tax troubles with you folks. I think it was your signature he told me, to a letter giving him 45 days in which to reply to some letter or petition or something you had filed and I think he still has several weeks before that 45-day period is up—I think it is at least three weeks. He wonders if in the meantime a date could be set that he could come up and settle his case with these folks.

Mr. Oliphant:

I'll take it up with the Bureau; and communicate directly with him or with you?

Mr. Christenberry:

You can communicate with Senator Long, or either way.

Mr. Oliphant:

Whichever you say.

Mr. Christenberry:

Suppose you let the Senator know.

Mr. Oliphant:

I'll take it up with the Bureau and communicate with the Senator.

Mr. Christenberry:

Thank you so much.

Mr. Oliphant:

Thank you.

June 22, 1938

154

HM, Jr. spoke to the President from the Farm this morning and asked him whether Gaston could come over this afternoon to read the monetary plank. The President is writing the complete platform himself. (See entry under date of June 25.)

The Secretary said he did not want any direct statement in favor of a managed currency in the platform nor any reference to silver. He said that he had seen some stuff that Eccles had written and as far as he, HM, Jr. was concerned, it was satisfactory to him.

June 22, 1936

The Secretary told Mrs. Klotz over the 'phone from the farm today that Harry Hopkins had said recently that he needed \$380,000,000 for relief for July, August and September. At that time, HM, Jr. recommended \$375,000,000 to the President. When it came to actually allocating the money to Harry Hopkins, the Secretary told Mrs. Klotz, the President cut it to \$350,000,000.

June 24, 1936.

My dear Mr. Phillips:

I beg to acknowledge receipt of your letter of June 23d and wish to thank you for keeping me posted on this important matter.

Sincerely,

Honorable William Phillips,
The Under Secretary of State,
Washington, D. C.

Miss McGuire:

This is very confidential
and after Mr. Oliphant has seen it
Mrs. Klotz wants you to return it
to me and no one else. Thank you.

McHugh

June 24/36

The record should show
that what I cleared with
Phillips was all in the
letter to him dated June 19, 1936
which I cleared with
the Secy June 19, 1936 and which
Mrs Roche signed

6/24 '36



721
Mr. Johnson:

Mrs. Klotz directed me to send this to you, as per our conversation. Please note it and return to me as soon as possible. Thank you.

R. McHugh,
Room 285,
Treasury Bldg.

June 24/36
Wednesday.

NOTE: THE NEW SYSTEM TO BE IN FORCE BY DECEMBER 1, 1936
TO ACHIEVE THE MAXIMUM CONCENTRATION OF STAFF
WHICH SHOULD BE COLLECTED UP TO THAT DATE

Mr. Taylor:

Please note and return to me
personally for the Secretary's files.

This is extremely confidential. Thank you.

R. McHugh
Room 285

June 25/36

THIS IS OFFICIAL COMMUNICATION TO
THE SECRETARY OF STATE
WASHINGTON, D. C.

ADDRESS OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON, D. C.



DEPARTMENT OF STATE
WASHINGTON

June 23, 1936

reply refer to

My dear Mr. Secretary:

With reference to previous correspondence regarding countervailing duties on German imports, I enclose a paraphrase of a telegram from the American Embassy at Berlin (No. 194, June 20, 7 p.m.) with respect to the proposed visit of German experts to discuss the matter.

I also enclose a copy of this Department's telegram to the American Embassy at Berlin (No. 79, June 22, 7 p.m.) outlining the position of this Government with respect to the proposed visit of German experts. The text of this telegram was discussed with Mr. Oliphant and received his concurrence prior to being sent.

I also enclose a memorandum recording a conversation with Dr. Meyer, First Secretary of the German Embassy, regarding this matter.

Sincerely yours,

Enclosures:

From Berlin, June 20, 1936;
To Berlin, June 22, 1936;
Memorandum.

William Phillips
Acting Secretary

The Honorable

Henry Morgenthau, Jr.,

Secretary of the Treasury.

PARAPHRASE OF TELEGRAM SENT

FROM: American Embassy, Berlin

DATE: June 30, 7 p.m.

NO.: 194

RUSH

I refer to my 187, June 17, 6 p.m.

I have just come from a long, frank, unsolicited luncheon talk with Brinkman. He says that so far the Foreign Office has received no word from Washington that his presence and the discussion are desired by the United States Government. He said incidentally that besides Imhoff he would take Baer of the Foreign Office with him.

Brinkman makes an excellent impression. He is Schacht's man of confidence and has a complete and ready knowledge of the economic and financial situation of Germany and of the world. Apparently his approach to the countervailing duties matter is on the same big scale as his ideas on world problems and would not be, in a narrow sense, by invective against our law or the Treasury decision based on it.

I venture to hope^{that}/nothing will be permitted to prevent his visit, since I feel that the opportunity it would give to go thoroughly into the matter should contribute not only to the solution of the particular question, but

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but also toward a better understanding on the part of Germany of the fundamentals underlying our whole economic policy.

EA:FL:DJW

COPY OF TELEGRAM SENT

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To: American Embassy, Berlin
From: Secretary of State, Washington.
Dated: June 22, 1936, 7 p.m.
No.: 79.

Your 194, June 20, 7 p.m.

We are telling the German Embassy here

(1) That, with a view to precluding any possibility of misunderstanding, Doctor Brinkman should have clearly in mind that existing laws with regard to countervailing duties are mandatory and the Executive Branch of this Government cannot waive their application where the technical factors require such application; and

(2) That subject to the limitations thus imposed by law, the authorities here will be glad to receive Doctor Brinkman and to give detailed consideration to any other matters that Doctor Brinkman desires to discuss.

You may convey the foregoing to Doctor Brinkman informally.

Hull

(WP)

MEMORANDUM

June 22, 1936.

I telephoned Dr. Meyer, First Secretary of the German Embassy, at 8:45 this afternoon regarding the proposed visit of Dr. Brinkman, Director of the Reichsbank.

I told Dr. Meyer that the Under Secretary had requested me to tell the Embassy: first, that in order to preclude any possibility of misunderstanding, Dr. Brinkman should bear clearly in mind that existing laws with regard to countervailing duties are mandatory and the Executive Branch of this Government cannot waive their application whenever the technical factors require such application; and second, that subject to the limitations thus imposed by law, the authorities here would be glad to receive Dr. Brinkman and to give detailed consideration to any other matters that Dr. Brinkman desired to discuss.

Dr. Meyer expressed appreciation for this information and said he would transmit it to Berlin immediately.

RECEIVED BY MR. A. H. H. 1936

A. E. Schoenfeld.



DEPARTMENT OF STATE
WASHINGTON

June 24, 1936

In reply refer to
EA 611.623/144

My dear Mr. Secretary:

I transmit for your consideration the translation of a note dated June 15, 1936, in which the Ambassador of Germany, pursuant to instructions from his Government, protests against Treasury Decision 48360. I also enclose a copy of my note of this date acknowledging the receipt of this communication.

Sincerely yours,

William Phillips
Acting Secretary

Enclosures:
From German Ambassador,
June 15, 1936.
To German Ambassador.

The Honorable

Henry Morgenthau, Jr.,

Secretary of the Treasury.

(Translation)

GERMAN EMBASSY

Washington, D. C., June 18, 1938.

Mr. Secretary of State:

By order of my Government, I have the honor to make the following communication to Your Excellency.

The German Government has taken note of the issuance of an order of the United States Treasury Department of the 4th instant (T.D. 48360), according to which certain groups of goods exported from Germany to the United States directly or through a third country are to be subjected, from July 18th of this year on, to the requirement of a special bond when brought into American domestic trade and to the subsequent application of special duties under Section 303 of the Tariff Act of 1930, in addition to the collection of the ordinary duties.

In the Foreign Office's note of March 30, 1938, to the American Ambassador in Berlin, the German Government has already explained the reasons for which, in view of the abnormal currency conditions prevailing in the world, special measures for compensating for exchange are

indispensable

His Excellency

Mr. Cordell Hall,

Secretary of State of the

United States of America,

Washington, D. C.

indispensable if German exportation to the United States is not to be practically completely stopped, which would lead to consequences necessarily unpleasant even to American exporters. It also expressed in the note its reasons for the conviction that the protective provisions of Section 303 of the Tariff Act of 1930, promulgated by the American legislative branch for an entirely different set of circumstances, cannot be applied to the methods of compensation of exchange exercised in connection with German exportation to the United States.

The German Government maintains the pertinent statements in the note mentioned. Nor can it see in the possibility, which is indeed granted by the Tariff Act of 1930, of taking legal measures before the American customs courts, after the actual imposition and collection of special duties under the Treasury Department's order, a satisfactory means of clarifying the situation. The German Government therefore finds itself compelled to lodge a protest against the United States Treasury Department's order of the 4th instant, mentioned at the beginning [of this note].

Accept, Mr. Secretary of State, the renewed assurance of my distinguished consideration.

MYNTER.

June 24 1938

Excellency:

I have the honor to acknowledge the receipt of Your Excellency's note dated June 15, 1938, in which, pursuant to instructions from the German Government, Your Excellency protests against the Treasury Decision (T.D. 48380) announced June 4, 1938, instructing Collectors of Customs to suspend liquidation of entries covering certain merchandise imported directly or indirectly from Germany after thirty days after publication of the Decision in the printed Treasury Decisions, and to require a deposit of estimated countervailing duties applicable on such merchandise under Section 303 of the Tariff Act of 1930.

The note of the German Foreign Office dated March 20, 1938, to which Your Excellency refers was duly transmitted

to

His Excellency**Baron Hans Luther**

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to the competent authorities of this Government also,
with the execution of the Tariff Act of 1930. I am trans-
mitting for their consideration a copy of the note ack-
nowledged hereby.

Accept, Excellency, the renewed assurance of my
highest consideration.

611.000/100

June 24, 1936

At the 9:30 group meeting this morning there was considered the 18 New Orleans tax cases pending before the Board of Tax Appeals.

The Secretary had Oliphant's memorandum, with attached copy of a telephone conversation which Oliphant had with Senator Long's secretary. (Copy attached.) This conversation referred to the civil case against Sushan and his wife, which is in the Board of Tax Appeals. Oliphant told the Secretary he had given instructions that this case is not to be settled under any circumstances nor otherwise disposed of except upon full payment of the tax interest and penalty, or by trial.

At the meeting, there was discussion as to whether the 18 New Orleans tax cases should be settled or thrown into the Court. The decision was made that the Treasury will only accept full payment of tax interest and penalty and if this cannot be accomplished, the cases should be brought to trial.

HM, Jr. said that it was understood there was about \$300,000 due Huey Long from the State of Louisiana which we want to attach, but he gave strict orders that he does not want to attach the life insurance of about \$100,000 which is supposed to be due Huey Long's estate.

June 24, 1938

The Secretary and Mr. Bell met today to discuss pending matters.

Mr. Bell reported that the Treasury has redeemed \$300,000,000 of bonds for the soldiers' bonus and paid \$70,000,000 in odd amounts, making a total amount paid out in cash since June 15 of just under \$400,000,000. In this connection, he said he had advanced the estimate of the amount required to pay off the soldiers' bonds for June to \$800,000,000, but added, "I don't think the total figures will change much. I had it 1½ billions in my former statement up to December 31 and I still think that figure is good."

At this point he referred to the Estimate of Cash Position (Exhibit I) and said, "If you stop your \$200,000,000 bills here and don't have any more to September, your balance runs down to 1,184 million in September and you can start the \$200,000,000 bills in October and \$200,000,000 in November and your balance will be \$956,000,000 for October and \$848,000,000 for November." The Secretary's comment was, "That's plenty." Bell continued, "That means that beginning today your press release would announce for \$50,000,000 only and as you go into September you will have \$1,300,000,000, which is plenty." The Secretary agreed. Bell then advised, "And you can make up your mind at that time whether you want to finance on September 1." HM, Jr. stated, "Then we will stop right there. No more bills."

Mr. Bell then referred to a memorandum he had received from Mr. Gill (Exhibit II) referring to an allotment of \$350,000,000 to WPA up to October 1, 1938, and pointing out that before any of this allotment is disbursed it would be necessary to reinstate the reserve for payrolls and to meet the payroll for the last week in June out of the new money. HM, Jr.'s reaction to this was, "That is contrary to the agreement. Hopkins said he would not use any of the new money to meet expenses of the last fiscal year." Bell replied, "That's right, but they are not going to spend all of their money by June 30; \$100,000,000 of the money they received prior to June is going to be spent in July. They stagger their payrolls -- if a man works a week in June and a week in July, he gets paid for two weeks, so you can't come up to June 30 and stop." HM, Jr. then asked, "Then they have kept their word?" and Bell answered, "Yes; I think they have. If he did not have to set this obligation up, he would still be a

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little short. He probably could get by on the basis of \$400,000,000 if it is confined to an expenditure basis rather than allotment basis." HM, Jr. said he would rather put it on an expenditure basis and Bell added, "I think that's all right. Then if you permitted him from September 15 on to obligate new allocations -- new money -- he probably could get by." HM, Jr.'s comment was, "I would rather do this on an expenditure basis. Then when the President gets back let the President allot money for three months more." Bell said, "What they are asking for is an obligation basis rather than expenditure basis," and the Secretary's decision was, "I would sit tight."

Exhibit I

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ESTIMATE OF CASH POSITION

June 1 to Dec. 31

1936

(In millions of dollars)

	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Balances at beginning of period	1,690	2,140	1,723	1,368	1,184	956	846	1,690
Receipts	555	315	280	540	245	230	520	2,685
Sale of Treasury notes and bonds	1,105	-	-	-	-	-	750	1,855
Sale of Treasury bills (net)	200	-	-	-	200	200	-	600
Sale of U. S. Savings bonds	25	25	25	25	25	25	25	175
	3,575	2,480	2,088	1,933	1,654	1,411	2,141	7,005
General expenditures	245	235	235	235	235	235	235	1,655
Emergency expenditures	250	190	270	260	280	250	250	1,750
Interest on public debt	115	12	25	124	85	10	111	480
Redemptions of veterans' bonds	800	300	100	100	100	50	50	1,500
Redemption of old debt	10	10	15	15	10	10	15	85
Special transactions	15	10	15	15	10	10	15	90
	1,435	757	640	749	698	565	576	5,540
Balances at end of period.	2,140	1,723	1,368	1,184	956	846	1,465	1,465
Refunding operations:								
Treasury bills:								
Regular	200	250	200	250	200	200	250	1,550
Special	-	-	-	-	-	-	400	400
Treasury notes	-	-	-	514	-	-	358	872
	200	250	200	764	200	200	1,008	2,822

\$400M Treasury bills in October and November could mature in June, 1937.

Accounts and Deposits
Confidential
June 24, 1936.

C
O
P
Y

WORKS PROGRESS ADMINISTRATION
Walker-Johnson Building
1734 New York Avenue NW
Washington, D.C.

File 13425
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Exhibit II

Harry L. Hopkins
Administrator

June 23, 1936

MEMORANDUM

To: Mr. Bell

From: Mr. Gill

On Presidential Letter #5001 dated June 22 prepared for the President's signature, \$400,000,000 was set up for allotment to the Works Progress Administration to continue work projects employing 2,293,000 persons. This letter was reduced to \$350,000,000 by the President, and a notation made on the letter by the President indicated that these funds were to be sufficient until October 1, 1936.

If this means that obligations from the new funds cannot exceed \$350,000,000 by October 1, it will result in the discharge of approximately 1,000,000 persons during the next seven days for the following reasons.

Before any of the \$350,000,000 becomes available for the work program of the WPA during July, August and September, it will be necessary to reinstate the reserve for payrolls which of necessity was dispensed with during recent weeks. This is estimated to require \$57,000,000. The recent shortage of funds also resulted in withholding the purchase of needed materials for projects until the funds became available. These accumulated material purchases are estimated to amount to \$14,500,000. It will also be necessary to meet the payroll for the last week in June out of new money at a cost of approximately \$28,500,000. The sum of these three items is \$100,000,000, which must be deducted from the \$350,000,000, leaving \$250,000,000 for operating requirements after July 1.

The National Youth Administration will need about \$15,000,000 to continue its present program for these three months. This would leave \$235,000,000 for work project costs, or about \$78,000,000 per month.

There are 2,293,000 persons now working on WPA projects (exclusive of NYA), at a cost of \$63 per man per month from Federal funds. Thus, with \$78,000,000, at a cost of \$63 per man, it would be possible to employ an average of only 1,238,000 persons, or 1,055,000 persons less than the number now employed. To keep within

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these financial requirements, therefore, it would be necessary to discharge these 1,055,000 persons by July 1.

If the \$350,000,000 restriction is construed as meaning checks issued rather than obligations incurred, a somewhat smaller number would have to be discharged. This would mean that no reserves could be set up to meet payrolls for which work has already been performed. We, of course, concur in the Treasury Department's belief that these payroll reserves should be maintained in order to be certain that funds are available to meet payrolls when they are due. I would estimate that, on this basis of considering the \$350,000,000 as the amount of checks that could be issued by October 1, we could employ an average of 1,620,000 persons during the next three months. When compared with the 2,893,000 persons now working, this would thus mean the discharge of 673,000 during the next seven days in order to meet the requirement on the basis of checks issued.

Our total requirements on an obligation basis to October 1, can be summarized as follows:

	<u>Millions of Dollars</u>
Payrolls last week in June	\$ 28.5
Payroll reserve	57.0
Accumulated requisitions for materials	<u>14.5</u>
Total needed for obligations prior to July 1	\$100
National Youth Administration	
July	4
August	4
September (including student aid)	<u>7</u>
Total, National Youth Administration	15
WPA work projects for 2,300,000 persons	
July	145
August	145
September	<u>145</u>
Total, WPA work projects	<u>435</u>
Total, exclusive of administration	550
Administration - 3 months	<u>17</u>
Total to October 1	\$567

I should like to add that we are in entire agreement with the Treasury Department that to administer properly a work program of the type now being conducted by the Works Progress Administration, funds should be allotted in order to provide for the completion of

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projects which have been started. We estimate that this would require an allocation of approximately \$650,000,000 to cover the estimated cost to complete the smallest possible economic unit of projects which are either now in operation or will be put in operation during July. Actual obligations and expenditures, of course, would be controlled on a monthly basis in the States.

The estimates in this memorandum do not, of course, include requirements for the 167,000 persons employed on the present relief program by Federal agencies (not WPA) on work not provided for during the coming year from other funds. Present allotments for these projects will be exhausted on or about July 1.

June 24, 1936

At lunch today with the President, the question came up about Rex Tugwell's request for funds for administrative purposes and the President remarked, "I have not been nominated yet. I can't take that up until later."

Strictly Confidential 76

THE UNDER SECRETARY OF STATE
WASHINGTON

June 24, 1936.

Dear Mr. Secretary:

In accordance with your request, I am sending you a copy of the memorandum of the conference which took place yesterday afternoon at the White House.

Sincerely yours,

William Phillips

The Honorable
Henry Morgenthau,
Secretary of the Treasury.

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STRICTLY CONFIDENTIAL

June 23, 1934.

The President asked me to sit in at a conference which he had this afternoon with Mr. Emmanuel Monick, French Financial Attaché in London.

The conversation opened with an inquiry by the President as to what ship he had come over on and whether he had had a good voyage. Mr. Monick replied that he had come on a German ship, in order to avoid publicity which might have occurred on a French ship and he hinted, although he did not say so, that he had traveled under an assumed name for the same reason. He added that no one knew of his presence here except the President and the State Department and, of course, his own Embassy. Some amusing comment was made by the President as to the efforts of Mr. Montagu Norman, Governor of the Bank of England, in trying to escape publicity by coming to this country under an assumed name.

After the usual exchange of courtesies by the President with regard to Messrs. Blum and Herriot, Mr. Monick asked permission to state the real reason of his visit to Washington. He proceeded to give a brief outline of the European political situation, of the weak-

ening trend of the little countries surrounding Germany, notably Poland; he regretted that the French Government had not responded to Poland's offer made sometime ago to cooperate in the event of the devaluation of the French franc; at the time this offer was made, however, France was preparing for elections and it was, therefore, not possible to consider devaluation. Mr. Monick touched on the defenseless conditions of Holland and Belgium and said that, should the 1914 situation be repeated, Belgium would not and could not resist the German military movement through Belgian territory. He ~~saw~~ this dark picture of European conditions, in order to show the importance of lending strength to the French Government and he admitted that the present government was in a somewhat precarious situation. Continuing Mr. Monick said he now wished to state the real purpose of his mission to this country.

The French Government needed the support of the United States and Great Britain in the program of devaluation. He himself was an ardent devaluationist, but was in entire agreement with the French political leaders that it could not be undertaken without international approval and support. His thought was that France could develop its program in this respect if it was known that the United States would

would hold the dollar at its present value in face of French devaluation. Mr. Monick did not mention the point at which the French would devalue vis-a-vis the dollar; if the French Government could be assured of the American attitude in this eventuality, it would be a simple matter to approach the British Government and to obtain its support. I asked Mr. Monick whether the French Government, in fact, had made any approach to the British Government along these lines during the last week or ten days, to which he replied in the negative.

The President then took up the thread of the conversation. He reminded Mr. Monick that the British Government and people held very definite views about London as being the center of international banking and that, in dealing with the British Government, one always had to consider their "amour propre". The President felt that the British Government would be very reluctant to accede to the French request unless the French Government had made a direct approach to them and that, in his opinion, three-cornered conversations should be held simultaneously. Mr. Monick thought this was an excellent idea and proposed that such conversations should be held now in Washington, he acting for the French Government, the British Embassy for the British Government. The President demurred and said

said that, from the British viewpoint, such a three-cornered conference would be considered in London as under the aegis of the American Government and that, here again, one must consider British "amour propre". In his opinion, the best way to go about it would be for the French Government to send similar and simultaneous communications to London and Washington. In that event, London would presumably inform Washington that it had received such and such a message from Paris and would request the views of the American Government. A quick exchange of views, therefore, between Washington and London would take place and, in this way, the purposes of the French Government might readily be achieved.

Mr. Monick accepted the President's views and gave the impression that he would act on them at once.

At the conclusion of the conference, the President asked me to get in touch with Secretary Morgenthau and it was my impression that Mr. Monick desired to have a further conference with the Treasury head. I assured the President that I would at once communicate with Mr. Morgenthau and I did so at his private residence.

William Phillips.

U 57/53

June 24, 1936

Bewley came in to see the Secretary at ten o'clock. Lochhead was also present. Following is stenographic report of the meeting:

HM, Jr.: Isn't this wonderful weather for Washington?

Bewley: Well, it's cooler.

HM, Jr.: Taylor will be back on Monday.

Bewley: I have nothing to say except to merely confirm what I have been saying in the past, but after you spoke to me about Atherton's telegram, last week, I naturally cabled back to London and we also got an independent telegram from the Foreign Office about what the Chancellor had been saying to Atherton. As far as I can make out from the Foreign Office telegram, they were speaking about the past, not the present. I said what you were good enough to say and Atherton said about the same.

HM, Jr.: You mean subsequently?

Bewley: No, in his original, according to the Foreign Office telegram. Then on the other point, I don't quite know where the misconception could have arisen, but as far as I am concerned I would like to confirm what I said before, which is that the uncertainties of the situation are such that it is impossible to speak for the future with complete definiteness, but subject to that and subject to the possibility of a fall in prices and the possibility of a big movement of capital out of London, the British authorities would not regard a moderate devaluation of the franc, of say 15% or 20%, as any reason for altering their general currency policy. I just put that in -- they would not regard that as creating a new situation in the sense they would have to do something for the pound.

What I think Atherton meant was the Chancellor had appeared to speak to him about the permanent policy of Great Britain. He certainly said Great Britain was not ready for permanent stabilization. Nothing new in that. What he said was the British equalization fund could not be used for permanent stabilization because that would require new legislation and British public opinion was not ready for it, but I don't think that is contrary to anything

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I said. As far as the immediate thing goes, it stands.

HM, Jr.: Then we understand each other perfectly.

Bewley: I think so and I don't think there is anything else in the telegram from the Foreign Office in addition to what you have been told in the past.

HM, Jr.: That clears up a very important thing.

Bewley: Yes.

HM, Jr.: The few days I have been away from here, there is nothing new that has happened as far as the situation is concerned. It is just as it was.

Bewley: Yes. I read what Auriol said and I suppose it means the fighting inside France is going on for some time. I only guess that. He seems to be taking a strong line.

HM, Jr.: Who was it said that July 15 is a sort of -- what was that? Auriol has to do something or other on July 15?

Lochhead: There is something.

Bewley: Don't let that happen. I want to go on holiday on July 23.

Lochhead: I think they have maturities on July 15 that will have to be taken care of and that's the internal proposition again.

HM, Jr.: You are going on holiday? When?

Bewley: July 23.

HM, Jr.: For how long?

Bewley: A couple of months; of course I am always at notice.

HM, Jr.: Are you going abroad?

Bewley: Yes, abroad -- England. I have two sons in England. I have not seen them for two years. I have to go back.

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HM, Jr: Who will be here during your absence?

Bewley: Both Chalkley and Counselor Mallet (?), but as a matter of fact, I think they would send me back. I would always be ready to come back and I think they would if it is really urgent.

HM, Jr: Would you bring in and introduce him to me -- whoever it is I am to talk to, before you leave?

Bewley: Certainly, I will speak to the Ambassador as to who it will be.

HM, Jr: I hope to get away on July 2, to be gone the month of July, and the President will be away most of that time too. I am only going to Cape Cod.

Bewley: Yes.

HM, Jr: But before I go, if I just could know who it will be. Well, it is very brief, but it is very important. It confirms what you said before and I appreciate your coming in.

Bewley: I think that's all.

HM, Jr: Because the State Department was quite upset over that telegram. Well, we will just have to be patient.

CONVERSATION BETWEEN SECRETARY MORGENTHAU

AND MR. MONICK, June 24, 1936

Mr. Monick: I brought with me Mr. Appert. Would you object?

HM, Jr: I would be very much pleased.

M: First, I must thank you for the conversation with you, which we have sent to France and they are very grateful for what you told me, especially about the accord which have been made by the British, between you and the British and that nothing was to be settled before they could talk to France. I think that was very much appreciated. Now I ---

HM, Jr: Nothing had been settled and we were trying, but I could not make any promises. You asked me whether anything had been settled and I said, No; nothing had been settled and we would do our best to see that France would be taken care of, but as to the future I could not make a statement that we would never do anything with the British, but I said we were waiting and hoping, but that up to now we had not come to any agreement, hoping that the agreement would be between the three countries.

M: Let's say it was the way when I came to you. I suppose I can mention anything? I had a meeting with the President.

HM, Jr: We know about it and Mr. Phillips has given me a memorandum.

M: Now I think we have come to the point where we must state exactly what we want. I think that the other day when we had our first talk, I guessed -- whether I was right or not, I guessed that if we would come here and that if we would at the same moment approach the British on this very question of what are you to do if we are to make a reasonable readjustment of the franc, what would be their answer. I guess I understood what you told me -- that there would be a good probability or at least a possibility of an understanding that there would be, at the end of such a move, no further devaluation and no economic reprisals and I think we knew pretty well that we could get such a declaration.

Let's be precise. If I go too far -- because we must go and have not the slightest ...

HM,Jr: I think you had better go over that again.

M: When I saw you, the other day, you had the feeling that I was come to ask you whether in case we would make a reasonable adjustment of the franc we could be assured of some declaration from your Government and from the British without not going to France but via Washington and coming to London at the same moment, if we would ask that being given a reasonable adjustment of the franc you would assure us that you would not take steps to make a currency war.

HM,Jr: That's true. Just one minute, because in our trade treaty with your country is a clause on devaluation.

M: That's right. I know it.

HM,Jr: Now, when you talk about trade economic reprisals, you are out of my field.

M: I know it.

HM,Jr: And, I haven't studied it closely enough, whether -- let's say you people devalue "x" percent, whether automatically under that trade treaty there would have to be an adjustment take place I don't know. I am not sufficiently familiar. Maybe Mr. Appert knows, but there is a devaluation clause in that treaty.

M: I know. I know.

HM,Jr: But to get back to the part which I am responsible for and which is the monetary one. And when you say that if the French should approach us simultaneously that they approach the British.

M: That's right, because I understood that from the President yesterday. He made it clear.

HM,Jr: That if you should approach the British simultaneously with us? You asked me if France should make a reasonable devaluation, would we stay "as is."

-3-

The answer is Yes, provided that it does not have a sharp effect on our internal price level. In other words, our internal price level might fall off a little. I can do it, unless there was a sharp effect -- there are two conditions: (1) internal price level and (2) unless we had an extraordinary amount of capital to leave this country. We are prepared and will be glad to see quite a large amount of capital leave and would not object, but if it meant, oh! a very large flight of capital and a very decided internal drop in our price level, that would change it. In each case, you notice, I am making it very decided.

M: Of course! Of course!

HM, Jr: Those are the two "if's", aren't they, Archie?

Lochhead: Yes; the flight of capital is not important as to the amount, but by its effect on interest rates.

HM, Jr: There can be several hundred millions, even, returned to France and we will be delighted to see it go back, but if it ran into a billion then we would like to go like this (made gesture) and say we want to think it over. Are we together? Those are the two "if's".

M: May I say that if we should come to such an accord, of course we would have in France a level in order that at any moment we should feel that there would be danger of too many funds leaving this country we would of course -- you could have such a level that you would be satisfied there would be no bad effect. If we come to what I begin to hope will be an agreement, I think it is the atmosphere of collaboration which is beginning, because as you say if you are forced -- I know it myself -- if such a big move in your capital structure was made and fall in your prices you would be quite sure that the dollar would move again. So in that case there must be some level, before we come to such a point and I think it is pretty well understood. So what accord do we come to? If we do, I must say it will be an atmosphere of collaboration which will force on us because if the situation would be exactly the same with the British people -- it would be like too many British funds going to France. At the very moment we should feel that in these funds going out there would be danger to the market in London, we shall have to lower our interest rate to a point where we can expect to discourage this flow.

Lochhead: Of course, on the other hand, you intend to lower your interest rates as far as you can.

M: The very minute.

HM, Jr: As an offset to these 2 "if's" or hedges, This is something we would like to see France do.

M: Yes. I know it.

HM, Jr: First, because we think it would be good for France and, second, the benefit we get out of it is just this. There is nothing selfish about this desire. We feel that if France would devalue, it's the one barrier for the moment which is keeping the world from a getting together on stabilization of currencies.

M: Right!

HM, Jr: And that if France takes the leadership, we feel all the world trade will get the benefit and we are willing to take our chances on getting our normal share. That's our thought -- no more, no less. We could sit here and say everything is lovely. The dollar is the strongest currency in the world. We have got recovery. People are going back to work. Why should we worry? But that is not our attitude and we will go a long way towards assisting in this move, because we feel that over a period of years this would be a start towards a real world recovery in trade and until this is settled, all these negotiations; everything on trade; the people will not let their trade barriers go down until this currency thing is straightened out.

M: I completely agree with what you exactly said. Completely! We must not seek too large. I mean we must begin with less, with Great Britain and France.

HM, Jr: Of course, any agreement like we are talking about, the United States does not have to go to the Senate for any ratification because it is not a treaty.

M: Good; that's right.

HM, Jr: Any agreement like this, the President and I can enter into this without having to go to the Senate.

M: Very important!

HM, Jr: When the President tells me this is all right, that ends it. Nobody else has to be consulted.

M: Good!

HM, Jr: No ratification. It isn't a treaty.

M: It is an understanding.

HM, Jr: The State Department on the Chinese thing called it a "conversation" and, therefore, it needs no ratification.

M: That is very important. Now I come to this point. How would you, let's say -- let's put it another way. How will the thing be worked out between you and the British people? I say this: I would like to know whether I guessed rightly when you told me that you had good reasons to believe, I think I don't go too far -- if I go, you stop me -- that you had good reasons to believe that if the situation in general in the world was not changed, no obstacle, the British people were ready to go almost virtually with the dollar?

HM, Jr: That's right.

M: Am I right?

HM, Jr: Sure! They make the same hedges.

M: The same hedges as you?

HM, Jr: Yes, the same.

M: Which way?

HM, Jr: Prices.

M: Prices.

HM, Jr: Flight of capital.

M: Flight of capital. Did you have either from the conversation with the British -- you did not go as far as that, but you have good reasons to believe that any moment we approach the British we shall have some conversation started on the dollar-franc and pound? Well, this is very interesting.

HM, Jr: I should think so.

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M: It is. And I begin to realize that my mission will not be as empty as I thought when I asked it, but now I do not think it is exactly our plan so we work it out. First, we want something a little -- a little action. I think we want something industrial and to give the figure to the people in France because we shall have some difficulty -- you realize that -- to make the move.

HM,Jr: I appreciate that.

M: But the form in which the thing can be put is naturally important and I think it is this form which will definitely settle the question to know whether or not we shall be able to do the thing in France. So you realize that we must make strenuous effort to keep on gold. I think myself it was foolish because for more than two years while I was in London and even when I was here I did not want to continue with this hope. I think it is this side of the question which in France is so important. People in France figure that after all they were fighting this battle, which was foolish. You can feel it. You have been in France. Did you realize this atmosphere?

HM,Jr: Of course, when I was there, the French people were terribly blue when I was there last September and they were very much discouraged.

M: Very much discouraged, yes. But they were fighting a battle without hope. But they thought there was some honor to fight this battle, exactly as the Dutch people are doing now. They are doing all the same. And I think if we make our move we shall have to answer those people, the Dutch, the Swiss, the Polish, which are so important even from the point of peace, to acclimate themselves to this monetary peace. You see, it is the way we feel in France.

HM,Jr: Somebody must take the lead, after all.

M: But we are prepared to take the lead! Today I shall give you, at the end of our conversation -- of course every word is confidential.

HM,Jr: Mr. Appert knows. Did you ever get any information out of the Treasury?

Appert: Oh, never! Oh, never!

HM, Jr.: Nor does anybody else. I check it ever so often to see if they are getting anything from the Treasury, on anything important.

M.: So it is very confidential.

HM, Jr.: We don't even -- our budget figures are not sold to racetrack people.

M.: Let's go on now. So I think we are nearer an accord in France, but the situation is so bad in France we are not near an accord as to how to inform the public on the question. But the question of form -- the form in which we can present it is of importance in France, you realize. In other words, what we want is not a declaration; it is an understanding, because the newspapers in France -- well, the thing is all there. Peace is here. And if I can make a resolution to be taken up confidentially here, because Mr. Herriot, who was against devaluation -- he made the most strenuous fight because of the answer to the feeling of the country, and he was feeling the same feeling the country had -- that it was a battle and that the battle ought to be fought until the last moment, and I think -- I don't think; I know, that at the very minute the thing can be presented, not as a kind of humiliation -- myself coming here and taking my hat and talking to the Secretary of the Treasury and Mr. Roosevelt, well, we are ready. Can we have a good word?

HM, Jr.: I will leave it to Governor Tannery. He has never felt that way. The Bank of France has never felt that way towards us. And, if you remember, I never said a word. It was Governor Tannery who announced in France what I had done. We have never taken that attitude and we have never felt that. At this moment we are a little more fortunate than some other country. We have never taken that attitude towards other countries.

M.: No, but we are speaking. I know you have in France a very good reputation in France because you are a friend of ours. I mean that the people in France must have the feeling that there was no humiliation.

HM, Jr.: What you are telling me is this: in the language we use, you want to "dress it up" and make it look attractive to the French people as a French accomplishment.

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M: No. I would not say that.

HM, Jr: As far as I am concerned, there isn't any reason you can't make it look any way you wish at home.

M: That's not exactly my point. I don't want -- I want some dressing, but this dressing is not French dressing, I would say.

HM, Jr: As long as it is not Russian dressing, I am satisfied.

M: What we want is a dressing of something general. We want a peace dressing. One day when -- some month when the political situation will have been cleared, then I hope I shall come here to talk declaration with you and possibly Herriot with me. But we want this feeling of peace and not only to France, but to the world that really this is monetary peace which is coming now. You know the feeling in France. I must make it absolutely clear that we are squeezed between the English battle and the franc and the pound and the dollar. We are squeezed. We must give the feeling in France that the battle is over, and that it is the beginning of monetary peace and some form of collaboration between the stable currencies. Do you think that this dressing is possible?

HM, Jr: I should think so.

M: I don't ask you for commitment.

HM, Jr: Of course, we don't in this country feel that there is any battle.

M: But in your heart you do.

HM, Jr: I don't think in this country the people are conscious of any international battle in currency. Our people are not educated up to it. There is very little in the papers about it.

M: But in France and England you see the battle.

HM, Jr: I would say this: from hearing it the first time it sounds all right, but I would like to go around in my mind.

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M: Of course.

(At this point, Mr. Monnick brought forth a typewritten copy of form of statement. Copy is attached.)

M: Having explained why we want something more than a bilateral declaration -- I regret they had not more than one copy. (Mr. Appert produced a copy.)

HM, Jr: Is it in English or French?

M: I put it in English. Of course it's bad English, but I thought it was safer.

M: May I read it. I think this will be worked out one hundred times before we come to something.

(Mr. Monnick read from the statement.)

M: Number (1) needs no explanation. I must say I would not mind if you make suggestions about that. Put in anything you wish. Better, present it from your own point of view. We would not object at all if you change it, just put in it -- just give the feeling any way you would like to give it some American feeling.

Number (2). The Pound Sterling will seek its point of equilibrium between 4.75 and 4.97. What does that mean? That it is just the point in the middle of that. You feel it is 4.86. A fluctuation of just the middle between 4.75 and 4.97; it is 4.86.

Lochhead: Of course, if you want to get down to details, but it's the middle rate based on the old parity.

M: This is just during the period before we come to a more definitive agreement about coming back to some kind of international standard. We have got to limit the fluctuation of the pound, and let me tell you something now which is important for the American, as I figure it myself. It is awfully important to make these definite rates. And don't you feel that we would go a step further and a very big step just as the one I tried to make here in 1923 when I was Financial Attache. Why would we not take opportunity of this talk because we take the initiative ourselves? Is that

fair? We would take the initiative to tell the British. That's all right. We make our move, but you have got to keep the pound in a definite fluctuation. Let us limit the fluctuation of the pound. You have got to make some effort, we would say to the British people. Well, the point to be reached is 4.88. Let's have a fluctuation of the pound during this experimentation. Let's have it between 4.75 and 4.97. You would not go lower than 4.75. You would not go up more than 4.97. We don't ask you to go back on gold. So you see my point? I think there must be something very definite about that. I think it would be a mistake for both of us to make this move and then to leave the pound completely free to fluctuate. We have got to ask Great Britain something a little more definite. They have got to make an effort not to fluctuate too largely. I think we can get that. I am not thinking that it is impossible at all, if it is well prepared.

Now for the franc. We would seek the level between .0475 and .0497. What does that mean -- that the pound in France would be at 100. I think we went too high when we made our stabilization move. We made a mistake. We would not have the pound at 100 francs. In this plan my view would be that we would leave gold. I had a talk with Blum before I came. I don't feel that in the unsettled conditions in France we can really make an adjustment on a new basis and seek it without any understanding. I think it would be a mistake. That perhaps would push the prices up. We have to put some boundary. It's my own feeling I would not like to see the franc completely free of gold. From your point of view, I don't think you would like it either. You are on gold. In France we would leave completely and even if we want to tie with gold I think from your point of view ..

Lochhead: How would you keep your tie with gold?

M: Very easily. Because .0475 and .0497 is a very small fluctuation. At .0475 I buy gold and at .0497 I sell gold.

Lochhead: For international purposes. You would divorce yourself internally from gold?

M: No.

Lochhead: You would give the gold up?

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M: We have not been in detail on this point -- to buy gold at .0475 and sell it at .0497.

Lochhead: Just make a bigger spread between your prices.

M: But I would not like to see France completely divorced from gold.

HM,Jr: Have you gone this far: that if you should devalue, what would you do with the profits?

M: Oh, yes! We know perfectly well it would go to the State, because we need it badly.

HM,Jr: Would you create a stabilization fund or use it to defray the cost of Government?

M: I think it would be in stabilization fund and, I will tell you, to try to work in accord with your stabilization fund.

HM,Jr: I think it most important to set aside some of this profit for a stabilization fund, because if you didn't you would have no way of enforcing it, if all the profits from this would go to make up your deficit.

M: Oh, no! I don't think that.

HM,Jr: I think France, if she devalues, should set aside enough so that she could have a stabilization fund.

M: Oh, but certainly we should!

HM,Jr: So you are looking forward to how you are going to enforce this? If France has a stabilization fund, England has one and we have one and the three would have to work together and unless they had a stabilization fund it would be almost impossible because I don't just see, unless they had a fund, how they could keep between the two points. Would France do its part?

M: Yes, we have to.

Lochhead: A 4% range. They would only work at the extreme limit each time. The only point about Mr. Monnick's suggestion is he would not work between; only when it got to .0475 or .0497.

M: Oh, no! Oh, no! But don't be mistaken about that. I am very definite. I don't want the franc to be put too much on one side and too much on the other side, because we have been used to being on gold on a certain measure. Let's be certain this plan works. With the stabilization fund it goes between the two points, exactly as the British would do between 4.75 and 4.97. We would try to minimize as much as possible the fluctuation. We would have, quite likely, a big fluctuation at the beginning. With your fund and with the British fund, we would like to come

HM, Jr: At the beginning the fluctuation would be fairly wide and we have to make them wide enough so that it would not break down the first week.

M: That's right. With my two gold points, that's why I need it. The British have had a stabilization fund for four years. That's all very well. We have none.

HM, Jr: That's why I say you can't let all your funds go through your fingers.

M: Don't be mistaken on that.

HM, Jr: You ask me how it will work? If there are three stabilization funds and each one puts up so much money and each would agree that when their own money reached a certain level they would buy and when it went up, they would sell -- it is like an aeroplane with three points, and when those funds, as each one took care of its own currency as it reached a low level and sold when it reached a high, this thing which would have three points would seek a level, but it would have to be when each country would put up so much money to guarantee itself.

M: We are completely in accord on that.

HM, Jr: As I see it, it radiates in these points. When it goes down, you give it a kick up.

Lochhead: He wants to go one step further and take the absolute low and the absolute high, but when it reaches there the stabilization fund makes it stay there, to reassure the French people. After all it's a little wide -- it's a certain leeway. They are trying to go on gold without trying to fix the price.

HM,Jr: I have always said that when this comes about the points have to be much wider and gradually narrow them down.

M: That's right, I know that not only I want wide points, but I have to have stop points, because I want to be absolutely clear. When you told me, What would you do with your benefits? I thought you were putting in this question: Would you let it go to the Bank of France or to the State? That was my mistake. I want it to be useful as a stabilization fund.

HM,Jr: I think we understand each other.

M: The third point. That would have to be discussed.

HM,Jr: I don't think the question of quotas can be handled here. No. You get into a diplomatic status.

M: Let's have a talk about that.

HM,Jr: No. When you start talking quotas, you are out of my field. It would make it impossible for me to talk quotas and at the same time talk monetary matters.

M: So you are asking me, Don't go this way? Thank you.

HM,Jr: No; we cannot talk quotas.

M: Let's take that out completely. But how could this question be taken anyway? What is your suggestion?

HM,Jr: You have just had an agreement with the State Department -- a trade agreement.

M: Oh, yes.

HM,Jr: And if you want to take up the question of quotas, you would have to take it up through the State Department.

M: I know very well. I know.

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HM, Jr: When you start talking quotas, that is not within my field.

M: Let's take it out, because after all, to give you my own view, this was only to reassure you more than to ask you something. We know that we are the people who have quotas and as I want to be completely fair about that ...

HM, Jr: No. In this thing we are only interested in monetary stabilization and we make no requests on quotas.

M: Now there is the question of procedure. Then we come to a point, possibly a little bit between both of us. I think you can be helpful on that. You have been more so than the British people. I never could come with the British people on something so fast as I came with you on this subject.

We have decided to go to the British people, to put this thing over right as it is. Do you think we have a chance? I leave our conversation together this way: do you think there is a basis of a talk on that?

HM, Jr: And the answer is yes.

M: You are good! We shall go through.

Lochhead: Not without difficulties.

HM, Jr: What he is asking me is, do I think if he puts a similar proposition -- without getting into a discussion of how much devaluation, but as to the principle, -- would you get a good reception. My answer to you is yes.

M: It will be a bargain. The British people will come and tell you, We want to fluctuate more than that. We want to have a fairly wider margin than that, because if it goes to 4.75 we shall be obliged to sell gold. 4.75 -- we want to fluctuate more than that. I think we shall come to it because they want us to have some stability now, but the point is they will ask for more than that and I do not think we can give them anything more than that. It will be a bargain.

HM, Jr: Don't misunderstand me. I have not discussed these rates or these points with you at all because it is too early.

M: That's right.

HM, Jr: I am just admitting that there have to be points. There should be upper and lower levels, but what they are, I am not prepared to discuss today because that gets down into the percentage of devaluation. I am not prepared to discuss that, but I must admit that there must be such a thing.

M: No. I am just talking now about what I know is coming. Just to prepare you for what is coming. The possibilities are good, but we want a fairly wider margin and I think we would be mistaken to give a too large margin.

HM, Jr: May I ask you this? What are you going to do next?

M: Yes. What I have to do. There are two ways. I could cable our conversation to Paris or either I can wait for something as definite -- what is your feeling?

HM, Jr: No, I don't ..

M: Because the closer we come ...

HM, Jr: No. Carrying out what the President said -- as I understand it, when I lunched with him today, he said he urged you to make a simultaneous proposal to Great Britain and ourselves. I don't see how you can go very much further with us until you do approach the British.

M: Perfect! I shall do that.

HM, Jr: I think you have gone about as far as you can with us.

M: We think we have been fairly clear on the situation. May I ask you: you have nothing in your mind which you are hesitating, because my English is bad? Nothing left out of your mind? If there is anything that seems dubious to you, don't ...

HM, Jr: Maybe after we go over it. Do you think of anything, Archie?

Lochhead: No. I have no question in my mind.

HM, Jr: I think it is a fairly simple plan.

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HM, Jr: I don't see how we can go any further more. I am just repeating what I said -- until you go that far with the British.

M: That's right.

(The following was off the record: Mr. Monnick said: Now we must go fast, as fast as we can because of the French situation, because I would not like for the Bank of France to go below 50,000,000 and we have funds to pay and notes and bills. So we are very near the point where I am waiting for a move in France to stop the liberty of exports of capital. But I tell you, because I think you go faster than I. I am grateful for this conversation.)

Suggestions for tentative draft
understanding
of a monetary ¹ accord between the United States,
Great Britain and France.

- I - The Governments of the United States, Great Britain and France, firmly believing that the recovery of international trade, the reduction of unemployment in the world and a speedy return of prosperity are imperative and convinced *more* further that the main obstacle against those achievements lies in the uncertainty prevailing in the monetary field, have decided to spare no effort in order to put in effect the following program :
- II - The Pound Sterling will *seek* ¹ reach its point of equilibrium between \$4.75 and \$4.97.
The Franc will *seek* ¹ reach its point of equilibrium between 0,0475 and 0,0497.
- III - Such monetary agreement should not involve in principle any measure of economic defense likely to hamper the revival of international trade, which is the *very* ¹ purpose of such agreement.

On the contrary, the three interested Powers declare

1782
that all their future efforts will aim toward
the suppression of quotas where they exist and
more ^{generally} especially, the suppression of any obstacle
which prevents the free exchange of goods.

However, if some commercial interests became
exceptionally injured as a consequence of the
establishment of a new parity between the three
above-mentioned currencies, such individual cases
would be settled in the most liberal manner
through immediate negotiations./.

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THE UNDER SECRETARY OF STATE
WASHINGTON

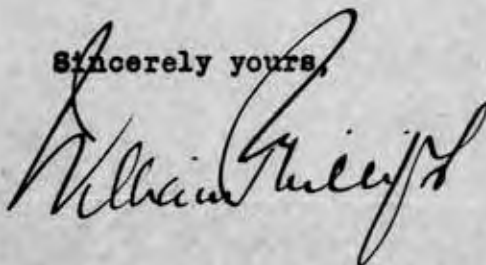
June 24, 1936.

Dear Mr. Secretary:

I am sending you herewith a copy of the memorandum of the conversation which Mr. Ray Atherton, our Chargé d'Affaires in London, had with the Chancellor of the Exchequer on June 15th.

Although you have already received a cabled report of this conversation, it occurs to me that you will be interested to have the full text.

Sincerely yours,



The Honorable
Henry Morgenthau, Jr.,
Secretary of the Treasury.

QUADRUPLICATE

LONDON, June 16, 1936.

No. 2261

SUBJECT: Conversation with the Chancellor of the
Exchequer on June 15, 1936.

CONFIDENTIAL. FOR THE SECRETARY AND UNDER-SECRETARY.

The Honorable

The Secretary of State,
Washington.

Sir:

I have the honor to refer to my confidential telegram
No. 315, June 15, 6 p.m., and to transmit herewith copy of
the memorandum of my conversation with the Chancellor of the
Exchequer on June 15, 1936.

Respectfully yours,

Ray Atherton,
Chargé d'Affaires ad interim.

~~Enclosure~~
Memorandum of conversation.

RA/MW



Regraded Unclassified

VV

Enclosure No. 1 to despatch No 2261r JUN 16 1936 1748
from the Embassy at London, England.

MEMORANDUM OF CONVERSATION.

London, June 15, 1936.

At the request of the Chancellor of the Exchequer I called at his office in the House of Commons this afternoon. Mr. Chamberlain stated that for some time past he had intended to have a talk with the Ambassador or myself because he was disturbed by indications received lest there develop in Washington a prejudice against British policy and methods, which he would personally deeply deplore and to dissipate which he was quite prepared to do anything he could, for it could not in any way help the general outlook. He asked me if I were conscious of any such attitude on the part of his opposite number in Washington, or the Administration generally, or on the part of the President, and he said that fundamentally in his opinion the differences existing between London and Washington were not differences of viewpoint but differences of method of government. This often caused misunderstanding until it was fully grasped: that, for example, even if an English official had the same viewpoint and aims as a corresponding American official, the Englishman had to bear in mind that the American could never make a binding commitment for the legislative branch of the American Government had to enter into any agreement which the Executive branch might reach. That realization had taken a long time to permeate into all departments but it was now understood.

The Chancellor then referred to the numerous people coming and going who had attempted to explain to him the

attitude/

attitude of the Administration, and said that it was from these people that he had been given the idea of possible misunderstanding arising. I said that for my part I felt that the viewpoints of the two countries in that they stood for peace and liberty and the well-being of the individual were identical. The method of achieving these aims was one to be worked out, and in a measure the progress in working them out depended on an understanding between the personalities involved. Furthermore, there were important matters in which, if the collaboration of the two nations could be achieved, it would mark a forward step for each of the two countries and for the world in general. At the present moment, I said, the most practical proof of any common understanding of world events was how far Great Britain and the United States could exhibit a common purpose in working for the restoration of economic well-being through the stimulation of world trade by the removal of tariff and other barriers to freer commercial intercourse. I then set forth at some length the aims and purposes of America's commercial policy as explained and practiced by Mr. Hull, and pointed out the way in which British policy had in recent years run more or less counter to American policy, and very carefully detailed the representations which Mr. Hull had made to Sir Ronald Lindsay, backed by the representations of this Embassy in recent weeks.

Mr. Chamberlain said that he hoped I realized that such arrangements as the Spanish agreement, etc., were in the English viewpoint abnormal--abnormal agreements made in an

abnormal/

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abnormal time and distasteful to the British Government. I informed him that I had already been advised on these lines, but that I felt that if the case was as strong as that, the British Government could go very far in openly making a strong statement of policy which would show agreement with the United States in a common aim and which would be very constructive in world economic centers.

He said that he understood that Mr. Eden had handed the Ambassador a memorandum not long ago and he hoped that Judge Bingham was very satisfied with this. Was that not my impression? I said that my impression was that he was pleased that the memorandum did not close the door but indicated the possibility of working something out. However, I said this memorandum had been transmitted to Secretary Hull and that we had had no indication from him as to his reaction, but we most certainly expected further instructions regarding the matter. Mr. Chamberlain said that he was most anxious to know Mr. Hull's reaction to it and he assured me that he was waiting to give Mr. Hull's reply his every consideration.

The Chancellor then expressed appreciation of the information reaching him through the kindness of Mr. Morgenthau, containing the views Coghren had obtained on the gold price situation, which bore out his own information. He did not feel that the French were at present prepared to devalue, due to internal political reasons; he thought that

they/

they would most likely put on restrictions which would be less satisfactory both to Great Britain and to the United States. In any case, whenever the French were prepared to devalue, the British Treasury would be forced to adhere in the given circumstances to its established policy in not predetermining definitely at what point the pound would in this relation be held. He particularly asked me to understand that this was no deviation from their past procedure.

He then asked me if my Government fully understood how the British Equalisation Fund worked, and he said he asked me this because suggestions he had received from Washington indicated the possibility of daily collaboration between the American Treasury and the British Treasury. Without waiting for any reply he then went on to explain that in the operation of the British Equalisation Fund only questions of policy were determined by the Treasury; that the execution of policy was left entirely in the hands of the Bank of England; that the Treasury did not attempt to enter into, much less to determine the day to day transactions which the Bank of England undertook; and that therefore it was impossible, given the nature of these well established arrangements, for the British Treasury to inform the American Treasury of what the day to day transactions of the Bank of England were to be, in spite of all the good will in the world. He seemed most anxious that Washington should fully understand the separation of functions between the British Treasury and the Bank of England, which entailed that any day to day

operation/

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cooperation with America should be through the Federal Reserve, the Bank of England's opposite number.

He then went on to ask me if I thought this would be understood in Washington, not from the point of view of any British predilections but from the point of view of what was practical in London, and the Chancellor was evidently most anxious that Mr. Morgenthau should have a clear appreciation of the picture from this end. He said it was often difficult for people separated by great distances to understand the internal economic or political motives that predetermined policy, and then he repeated almost verbatim his introductory remarks, emphasizing that the possibility that there might be antagonism between London and Washington was something which he and his colleagues would deeply deplore, and that he hoped that a difference of technique did not necessarily mean an incompatibility of views, and that they were most anxious to work out with us any common purpose and remove any misunderstanding.

R.A.

June 25, 1938

I took the original monetary plank which we had prepared and another which included two paragraphs incorporating Eccles' ideas.

The first thing the President did was to count the words in the monetary plank which he had prepared. His statement had 157 words. He then took what looked like the shortest one and he said, "Your type is bigger, so I had better count your words," and before even reading it he counted 231 words. He was far more interested in the number of words than he was in the subject matter. Then he read the plank and cut out 30 words, leaving 201.

The monetary plank which he sent us this morning was the one that he worked on while I was with him at lunch on Wednesday.

Then they sent us another draft, which was prepared by the Platform Committee at Philadelphia, which was awful. I called the President and told him that I did not think well of the monetary plank which the Committee had prepared and that they had omitted the most important sentence which is the "guts" of the whole thing. I referred to the sentence "We approve the objective of a permanently sound currency so stabilized as to prevent the wide fluctuations in value which in the past have injured in turn producers, debtors, and property owners on the one hand and wage-earners and creditors on the other, a currency which will promote full utilization of the country's resources and equitable relations between debtor and creditor."

At three o'clock this afternoon, Sam Rosenman called me and told me that the sentence to which I had called the President's attention was included in the monetary plank.

My own opinion is that it is more important to get the right thoughts in the platform than it is to keep it down to 200 words.

I discussed with the President the desirability of releasing another 250,000 bales of cotton in the Commodity Cotton Pool. He said that Jesse Jones had made the same recommendation on Tuesday and he, The President, had o.k'd

the releasing of 200,000 bales.

FISCAL AND MONETARY POLICIES

Monetary policies of this Administration were an essential factor in stopping deflation, in restoring the values of American products at home and abroad, and in enabling business to go ahead with confidence. We approve the objective of a permanently sound currency so stabilized as to prevent the wide fluctuations in value which in the past have injured in turn producers, debtors, and property owners on the one hand and wage-earners and creditors on the other, a currency which will promote full utilization of the country's resources and equitable relations between debtor and creditor.

Increase in national income and consequent increase in Federal revenues have marked each year of recovery, proving that the only sound road to a balanced budget lies through the gateway of a balanced recovery promoted by national action designed to that end. We are moving steadily toward our goal of a national income adequate to meet the people's needs -- the only humane and practical way that the Federal budget can be balanced and the Federal debt reduced.

We take pride in a record of honest and zealous administration of the tax laws without favor to or discrimination against any person. We affirm our continued adherence to the just principle of taxation according to ability to pay and to benefits received. We approve the policy of promoting greater justice and equity in the tax structure which has been the governing objective of the tax legislation enacted during this Democratic Administration.

THE BUDGET

We favor reduction of Federal expenditures, balancing of the budget, and retirement of the national debt as rapidly as is made possible by continuation of the improvement in business, employment and the annual national income, which is already more than twenty billions of dollars greater than in 1932.

The last Republican Administration made a tragic failure of its attempts to balance the budget because of failure to adopt effective measures to stop the ruinous deflation which resulted in a shrinkage of the national income by more than one-half, thus drying up the source of revenue necessary to balance the budget.

By the constructive measures through which the Democratic Administration has revived business activity, supplied employment and restored the incomes and buying-power of our people, it has established the only sound and sure means by which the budget can be brought into balance and debt reduced.

Abandonment of these policies of fundamental restoration would jeopardize the recovery evidenced in every phase of the nation's life.

BANKING AND CURRENCY

We indorse the monetary policies by which the Administration has made the dollar the soundest money in the world today. The nation's credit was never more secure.

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We pledge continuance of policies that make for an honest dollar, providing justice alike for debtor and creditor, and an equitable relationship between prices of agricultural and industrial products.

We approve continuance of the discretionary power vested in the Executive to defend the dollar in the international markets so long as the interests of American producers and workers can be put in peril by excessive depreciation of foreign currencies. It is essential that the United States be prepared to act promptly and effectively to meet whatever contingencies may arise in the international monetary situation.

We favor stabilization of world currencies under conditions which will protect the interests of American agriculture, industry and trade, and promote the international exchange of goods and services.

We oppose a return to that type of gold standard which would again make American agriculture and industry helpless against a world-wide fall in prices, put the American dollar at a competitive disadvantage with depreciated currencies abroad, or expose the nation's reserves to raids for the benefit of private hoarders and international speculators. Such a course would invite a recurrence of national disaster such as we experienced under the former gold standard that has broken down throughout the world.

We oppose any resort to the printing presses.

We pledge continued adherence to the policies by which the Democratic Administration rescued the banking and currency system from the worst

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collapse in all history and restored that system to greater strength and stability than ever before.

We indorse the policies by which banker control over the money system has been replaced by control through a public body representing the public interest.

For the first time in our history deposits of the great mass of our citizens have been made secure against loss. We pledge a continuance of coordinated monetary and fiscal policies that will avoid the twin evils of inflation and deflation and thus promote the orderly economic progress essential to enduring prosperity.

June 25, 1936

Material for the monetary plank of the Democratic party.

June 25, 1936
Sent to me from White House
by Miss Tully at 12. P.M. noon 187

FISCAL AND MONETARY POLICIES

The Administration has stopped deflation, restored values, and enabled business to go ahead with confidence. We approve the objective of a permanently sound currency so stabilized as to prevent the former wide fluctuations in value which injured in turn producers, debtors, and property owners on the one hand and wage-earners and creditors on the other, a currency which will promote full utilization of the country's resources.

Increase in national income and consequent increase in Federal revenues have marked each year of recovery, proving that the only sound road to a balanced budget lies through the gateway of a balanced recovery promoted by national action. We are moving steadily towards our goal of a national income adequate to meet the people's needs -- the only humane and practical way that the Federal budget can be balanced and the Federal debt reduced.

We are proud of our honest and zealous administration of the tax laws without favor to or discrimination against any person. We adhere to the just principle of taxation according to ability to pay and to benefits received. We seek still greater justice and equity in the tax structure which has been the governing objective of the legislation enacted during this Democratic Administration.

June 24, 1936.
gave copy to F.H.R. at lunch
While I was with F.H.R. he used this ¹⁸⁸ draft.

FISCAL AND MONETARY POLICIES

Monetary policies of this Administration were an essential factor in stopping deflation, in restoring the values of American products at home and abroad, and in enabling business to go ahead with confidence. We approve the objective of a permanently sound currency so stabilized as to prevent the wide fluctuations in value which in the past have injured in turn producers, debtors, and property owners on the one hand and wage-earners and creditors on the other, a currency which will promote full utilization of the country's resources and equitable relations between debtor and creditor.

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June 24, 1936 gave copy to F.D.A. Lunch

FISCAL AND MONETARY POLICIES

189

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*From White House
June 25-12.35*

GOVERNMENT FINANCE:

191

The Administration has stopped deflation, restored values and enabled business to go ahead with confidence. When national income shrinks, government income is imperilled. In reviving national income, we have fortified government finance. We have raised the public credit to a position of unsurpassed security. The interest rate on government bonds has been reduced to the lowest point in twenty-eight years. Same government bonds which in 1932 sold under 83 are now selling over 104.

Our monetary policies have protected American agriculture and industry against world wide fluctuations in prices. We have safeguarded our dollar against the competition of depressed currencies abroad. We have protected the nation's reserves from raids by private hoarders

and international speculators. Our currency is today the soundest in the world.

We are determined to reduce the expenses of government. We are being aided therein by the recession in unemployment. As the requirements of relief decline and national income advances, an increased percentage of Federal expenditures can and will be met from current revenues, secured from taxes levied in accordance with ability to pay. Our retrenchment, tax and recovery programs thus reflect our firm determination to achieve a balanced budget and the reduction of the national debt at the earliest possible moment.

PARAPHRASE OF TELEGRAM RECEIVED

FROM: American Embassy, Paris, France

DATE: June 25, 1936, noon.

NO.: 539

FOR SECRETARY MORGENTHAU FROM COCHRAN.

This morning Baumgartner invited me to the Ministry of Finance to tell me how greatly number three appreciated the reception which number one was accorded at the Treasury Saturday. Baumgartner believes that, with number one fully understanding number three's position, the method which has been adopted will be the best method to assure a continuous confidential exchange of views.

He said that since the new Government came in, the Ministry of Finance has been tremendously busy planning legislation, etc., but that the pressure is now lifting a little. He says that with one bill passed as reported in my 535, June 24, 5 p.m., the financial needs of the Government can be taken care of until October or thereabout. He said that no one could (omission) as to the monetary and political problems which might arise before that time. He was speaking purely from the technical Treasury viewpoint.

I mentioned the different interpretations the press had given to the above-mentioned bill. I asked whether the Treasury could avail itself of ten billion or of twenty billion francs under the bill. He said that

originally

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originally he had asked Caillaux to approve twenty billion funds for the Treasury. Caillaux, however, would agree to only ten billion so that the Treasury can benefit from new borrowing to a total of ten billion francs either from the Bank of France or through issuing baby bonds to the public.

I said that I had spoken very frankly with Baumgartner's chief when the situation here appeared most critical. Baumgartner replied that they appreciated this and that they would talk openly with us in the future. Personally he feels that final settlement of the problem of the French franc is only postponed and he would prefer to see it come as soon as possible. He realizes that there might be troubles incidental to such settlement. He says, however, that France, being really a solid country, could stand any such troubles and quickly recover from them.

STRAUS.

EA:FL:LWW

June 25, 1936

At the 9:30 meeting this morning, Bell reported that the Deficiency Bill made available ~~but~~ \$285,000,000 to the Old Age Fund. He said to the Secretary: "The original law required you to invest those funds. The law said:

"It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the Account as is not, in his judgment, required to meet currency withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Account. Such special obligations shall bear interest at the rate of 3 per centum per annum. Obligations other than such special obligations may be acquired for the Account only on such terms as to provide an investment yield of not less than 3 per centum per annum.

He said, "The New Act provides:

'For an amount sufficient as an annual premium for the payments required under title II of the Social Security Act *** to be appropriated to the old-age reserve account established under section 201 (a) of the Act, fiscal year 1937, \$285,000,000: Provided, That such amount shall be available until expended for making payments required under the Act, and the amounts not required for current payments shall be invested from time to time in such amounts and in such manner as the Secretary of the Treasury may deem most expedient in accordance with the provisions of such Act."

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Bell stated, "What I would like to do is to recommend that this money be invested on a monthly basis beginning January 1, 1937." HM, Jr. agreed.

On June 12, Miss Roche sent a memorandum to the Secretary in which she advised him that Dr. Ferran had sent her copy of a letter he had written to the President on the subject of obtaining funds from Harry Hopkins for the Public Health Service to use for medical care of syphilitic transients in the transient camp now to be closed at Hot Springs, Arkansas. The Secretary, accordingly, on June 22 wrote a letter to Harry Hopkins (copy attached) requesting that the sum of \$383,800 be transferred to the Public Health Service to provide for a continuance of the facilities for treatment of these patients. The Secretary today told Miss Roche that since it is not a works progress project, Harry Hopkins cannot give the money to the Public Health Service and that there was nothing further that he, HM, Jr. could do about it.

The Secretary recommended to Miss Roche that inasmuch as the CCC are having difficulty in getting men to fill their enrollments, they ought to merge the youth movement and the CCC during the summer. While there might be conflict within the two activities in the winter, he thought merging the "brawn and the brain" for the summer would be worth while.

Upham brought up for discussion a request of the RFC for permission to subscribe to \$150,000 preferred stock of the First National Bank of Mahanoy, Mahanoy, Pa. The Secretary signed a letter such as is usually done in similar cases, but asked Upham to call Jesse Jones and tell him we would be willing to have him withdraw the request, so that it would not be necessary for the Treasury to formally refuse the request and so that there would be no record in the file of the request.

HM, Jr. told Bell today to revise the letter to the Red Cross, dated , in which they were advised that the Treasury would not approve of their investing funds in any but direct Government obligations, and make it read so that they can invest in either direct or indirect Governments.

June 22, 1936

Mr. Harry L. Hopkins,
Administrator,
Works Progress Administration,
Washington, D. C.

My dear Mr. Hopkins:

I have been informed by Surgeon General Parson, U. S. Public Health Service, that in a conference with him several weeks ago you advised him that it might be possible to transfer from your Administration to the Public Health Service sufficient funds for the operation of the Transient Camp and Transient Hospital at Hot Springs National Park, Arkansas, as a part of the U. S. Public Health Service Clinic at that place during the fiscal year beginning July 1, 1936.

The provisions of your Administration in extending domiciliary care to transients infected with syphilis and gonorrhea at Hot Springs have materially aided the administration of adequate treatment to these individuals. Many hundred transients have been rendered non-infectious through the administration of such adequate treatment. The spread of syphilis and gonorrhea has been prevented to a much greater extent than if such facilities had not been provided.

It is desired to request that the sum of \$500,000 be transferred to the Public Health Service in order to provide for the domiciliary care of infected transients in the Transient Camp and for the medical care of such transients in the Transient Hospital at Hot Springs National Park, Arkansas. In support of this request, an application for this grant is attached, together with a budget showing the proposed expenditures at the Transient Camp and Transient Hospital.

Sincerely yours,

Secretary of the Treasury.

Encl.

HAV:AMH

FEDERAL RESERVE BANK
OF NEW YORK

197

OFFICE CORRESPONDENCE

DATE June 25, 1933.CONFIDENTIAL FILESSUBJECT: TELEPHONE CONVERSATIONL. W. KnokeWITH BANK OF ENGLAND.

I called Mr. Bolton at 12:03 today to remind him that in his cable of June 19 he had promised us further details of the gold earmarked but that so far, nothing had come to hand. Bolton stated that a cable left an hour ago (we have since received it) and apologized for the delay which, he explained, was due to the fact that some of the gold had to be remelted.

I inquired what was going on in his market and he replied "Perfectly nothing at all. Exchange markets in Europe are dead." I asked whether he could tell me whether the French had worked out a technique as to how to bring back expatriated funds. Bolton replied he had no idea; it was his feeling, however, that at present they were trying to get such funds back by threats only, nothing had so far been said of compulsory repatriation. One thing he could state with emphasis, he added, namely that as yet there had been no evidence of actual repatriation. A very small movement to buy francs last Monday, caused by short covering, had not lasted 24 hours. Business of any sort this week was not worth talking about. There had been no change as regards the very mild restrictions recently put on. The arrest of a Czechoslovakian, who had been arrested at le Bourget trying to take gold out of the country and was deported, was all for the purpose of making an example.

I asked Bolton what his feeling was about the possibility of successfully floating the contemplated baby bonds. Bolton replied that people over there did not seem to think that the public would buy

FEDERAL RESERVE BANK
OF NEW YORK

OFFICE CORRESPONDENCE

DATE June 25, 1936.

CONFIDENTIAL FILES

SUBJECT: TELEPHONE CONVERSATIONFROM L. W. KnekeWITH BANK OF ENGLAND.

- 2 -

them in very large quantities, adding "Why should they?"

As regards conditions here, I mentioned as of possible interest to Bolton Senator Thomas' statement at Philadelphia that devaluation was a dead issue for the present, that practically no one wanted further devaluation of the dollar, and that he, Thomas, did not.

LWK:KMC

TREASURY DEPARTMENT

198

INTER OFFICE COMMUNICATION

DATE June 25, 1936

TO Mrs. Klotz ✓
Mr. Bell
FROM M. A. Harris

Mr. Morgenthau, in telephone conversation with Mr. Burgess this morning, expressed the wish that purchases for the various Treasury accounts be confined to the new $2\frac{3}{4}\%$ Treasury bonds of 1951-54 in preference to the $2\frac{7}{8}\%$ Treasury bonds of 1955-60, unless definite weakness appears in the $2\frac{7}{8}\%$ issue. He stated that the various account holdings of the $2\frac{7}{8}\%$ Treasury bonds of 1955-60 amount to about 10% of the amount outstanding, which was enough of this particular issue.

MAH

June 25, 1936

The Secretary is sending Harold Graves, Irely, Murphy of the Secret Service and Gorman to visit the Pacific Coast offices to make a tour of inspection.

199A

Thursday
June 25, 1936
3:15 p. m.

George
Harrison:

some time around the middle of July -

HMjr: Yes

H: - for his usual vacation up at Bar Harbor.

HMjr: Yes

H: He does it each year, he goes up to see old Mrs. Marcoo (?) up there.

HMjr: Yes

H: And - normally he would usually go down to Washington to call on Eccles or the Board members if there was no objection to his doing so. And when I talked to Eccles yesterday Eccles said he would like very much to have him do so and - provided you didn't have any objection to his doing it. And I didn't want to do it anyway but I've talked to you to make sure that it wouldn't embarrass you in any way to have him do it in the usual way, the way he has done it in the past.

HMjr: Well, of course the last two years he has not come to Washington.

H: That's right, because I told him I thought it would be unwise for him to do it. In fact he hasn't come here, you see, he's gone straight to Bar Harbor.

HMjr: Yes

H: So --

HMjr: Well, may I ask this? Is this a suggestion of Norman's? I mean, has he asked?

H: Well, he talked to me on the telephone. He said he was coming over and that he would like to go to Washington to pay his usual calls if I wanted him to.

HMjr: Well, of course he hasn't done it now - in what, three years?

H: Well, I don't remember when the last time was.

HMjr: Yes

H: Now, if you have any hesitation about it all I'd tell him is that I think he'd better not do it, that's all. In that event he would come over and go direct from

H: New York, probably the day after he gets here, up to Bar Harbor and then he's sailing from Quebec.

HMjr: Yes - let me think on it, George. I can't give a snap answer, - see?

H: Yes

HMjr: I say I just can't give a snap answer.

H: Yes, well that's all right. Could I - could I get in touch with you tomorrow some time?

HMjr: Well, it'll have to go over until next week because I can't bother - I can't reach the President now, he's on his speech, you see?

H: Yes

HMjr: And if Norman comes here it'll create a tremendous flurry.

H: Yes

HMjr: And I just wonder if he wants that.

H: No, I don't think he does at all.

HMjr: Well -

H: I asked him, I said, 'What do you mean, have you got anything up your sleeve or anything you've got to discuss?' He said, 'Not a thing'. And I believe him.

HMjr: Well, it'll create a tremendous flurry if he comes here.

H: Yes - well then why don't we decide now to tell him not to?

HMjr: Well I don't like to do that.

H: Yes - well I'd take the responsibility of telling him not to.

HMjr: Well, I don't want to take the responsibility of telling him to come or not to come.

H: Yes

HMjr: But - but if he wants to come he's going to - it's going to create a tremendous flurry.

H: Yes - well it won't if he just goes - comes here and stops here in New York and then goes on up to Bar Harbor, the way he has done in the past.

HMjr: No, that won't. But he's always landed in Montreal and he's motored down from Montreal - Mrs. Marcoo (?) has gone up there and met him in a car and driven him down.

H: No, not always. He's come through New York and gone up there - I think two years ago he came through New York and went up there.

HMjr: Well, there wouldn't be any objection to that, but if he comes here to Washington it's going to create a tremendous flurry.

H: Yes - well, I think it will cause a lot of talk.

HMjr: Yes

H: I agree. - But I didn't myself want to say yes or no (Laughs) without talking to you. That's the reason I'm calling --

HMjr: Well, you see how I feel, and I - it isn't up to me to say.

H: Yes

HMjr: But - I mean if it was I - I'd rather that he - a little bit rather that he didn't.

H: Yes - yes - all right, well I'll - I'd like to telegraph him tomorrow because he wanted to make his time. So I think I'll just, in the light of what you say, make up my own mind what to tell him.

HMjr: Yes, but I'd much rather you didn't bring me into it.

H: Yes - you don't object to my talking about it to Eccles? - and telling him that I rather gathered from you that you think it might cause a flurry and that I think we'd better tell Norman not to come?

HMjr: I don't mind your telling Eccles that, no.

H: Yes, that's what I mean. All right and if you have any difference in opinion later on let me know, will you?

HMjr: Yes, I will.

H: All right.
HMjr: Thank you.
H: First rate.

Thursday
June 25, 1936
3:50 p. m.

HMjr: Hello

Operator: Chairman Eccles

HMjr: Hello

M. S.

Eccles: Hello

HMjr: Marriner -

E: Well, how are you, Henry?

HMjr: Pretty well. They're having quite a battle over this plank and they've pretty well spoilt it.

E: They what?

HMjr: They rewrote it all up in Philadelphia.

E: Oh, hell -

HMjr: Yes, exactly - But, I've done the best I could, and done everything - I haven't left a stone unturned but it's pretty bad.

E: Well, why doesn't the -- ?

HMjr: The President took what we sent over to him yesterday and liked it and sent it up and by the time it came back it was terrible. But that's that. No one could have worked harder on it than I did.

E: Well, couldn't he - couldn't he get them to take it?

HMjr: Couldn't he?

E: Yes

HMjr: Evidently not. But Marriner, let me talk to you about something else if I may?

E: Yes

HMjr: George Harrison called up but I didn't want George telling you what I said. I wanted to tell it to you direct, see?

E: Yes

HMjr: He called me up and said, had I any objection if

Governor Norman came to see you here in Washington.

E: Yes

HMjr: That he'd talk to you about it. Well, I said, 'After all it isn't up to me to object or not to object'. So he said well, he was coming over here - do you know about this?

E: He said to me yesterday - it wasn't a question of coming to see me, it was a question of whether there was any objection to him coming down to Washington.

HMjr: Yes

E: See? And he said that he - if he came down he would like to see me and would like very much, no doubt, to call on you or some of the others if there was no objection to it.

HMjr: Well, I didn't --

E: He wasn't making the trip down to see me especially.

HMjr: Well, I left - it that way, that's why I wanted to call you direct.

E: Yes

HMjr: So, what I wanted to say was this, after all it isn't up to me. I told George if it was up to me I simply felt that Norman coming at this time would create a sensation - to Washington, you know?

E: Yes

HMjr: And, while he can do anything that he wants I wasn't particularly anxious to see him come.

E: Yes

HMjr: That's what I told him.

E:5 Well, I think that's all right. When he mentioned it to me, 'Well, as far as I am concerned personally, ' see?

HMjr: Yes

E: I said, 'I have no objection if he wants to come down here, I guess that's his privilege'. I said, 'If he

wants to meet me I'd like to meet him'.

HMjr: Well --

E: But I said, 'The thing to do, the thing for you to do'--

HMjr: Yes

E: 'is to speak to the Secretary'.

HMjr: Well, that's playing ball.

E: -'about the thing, because after all they're just as interested in this thing if not more so than I am'.

HMjr: Yes

E: And I said, 'I'll speak to him if you want me to but it - but it may be inasmuch you're handling it - it would be better for you personally and directly to speak to him.

HMjr: Yes, well --

E: So that's how he happened to speak to you.

HMjr: He put me sort of in the position that I didn't like it.

E: Yes

HMjr: That - did I want the Governor of a Central Bank to come and call on you. Well now that isn't my job and I didn't want it repeated to you that I said I did or didn't, you see what I mean? But it was sort of put up to me as though he was coming down here to call on you.

E: Well, that isn't the way it was put up to me at all.

HMjr: Well that - I just didn't feel right about --

E: He said, as a matter of fact it would be perfectly easy for me -

HMjr: Yes

E: - He's going to come into New York as he does every year -

HMjr: Yes

E: And it would be perfectly easy for me to meet him some place informally -

HMjr: Yes

E: - along with George -

HMjr: Yes

E: And if that's all there is - if it's just a question of meeting me -

HMjr: Right

E: Then it wouldn't be necessary for him to come down to Washington at all if that --

HMjr: Well, George said to me, 'How would you feel about his coming through New York?' I said, 'I have no objection, - I have no objection.' 'But', I said, 'I can't help it if he comes to Washington and it's known that Governor Norman's here it's going to create a sensation'.

E: Well, I rather think you're right, I think -

HMjr: And - but I'm awfully glad I called you because I just was trying to - you know sometimes how people sort of put words in your mouth and you don't feel right about it afterwards?

E: Yes

HMjr: And I just didn't feel right about it and I said, well after all I feel (laughs) if I say so, closer to Marriner than I do to George and I'm going to call up Marriner and I don't have to have anybody interpreting what I'm saying about somebody who's going to call on Marriner Eccles.

E: Well, I - I didn't call you about the matter because when George spoke to me yesterday, see, I said, I told him, - see?

HMjr: Yes

E: - that I thought it would be better for him to call you inasmuch as he was the one that was making the inquiry.

HMjr: Well, I --

E: See? That's why I just said, 'You call the Secretary and whatever his - whatever way he feels about it

is certainly all right with me.

HMjr: Well, do we understand each other?

E: Perfectly

HMjr: And if you feel that I've made a mistake, will you let me know?

E: I don't feel that way at all about it. I don't feel that way at all because I - I was not certain in my own mind that it would be the desirable thing and that's why I said what I did.

HMjr: Right

E: And - if it's -

HMjr: Well, we're together.

E: Yes - Well, on this other thing -

HMjr: Yes

E: Who was responsible for upsetting the apple cart up there?

HMjr: I don't know - I can't find out.

E: I'll be damned!

HMjr: Yes

E: Well, it's too bad.

HMjr: Yes

E: All right, then, -

HMjr: I got this first paragraph about debtor and creditor put back.

E: Oh yes

HMjr: That's important - that's back.

E: Did you get the one about the - about the policy pursued by the Republicans?

HMjr: No, that's not in there.

E: They wouldn't put that in?

HMjr: No - they put in that the Government bonds sold at eighty-three and now they're selling at a hundred and four. Well, that, I think is terrible. Supposing they'd go off two points, then what?

E: Well it's terrible politically, it's terrible from a political - and they may do that and that would - - - it may encourage some of the opposition to make a raid on the market.

HMjr: I know.

E: I mean - I mean that sort of thing has holes -

HMjr: Well, I just wanted to let you know I took both statements over, followed it through for all I could, I only did, was fifty - twenty-five per cent successful.

E: The one about the only way the budget could be balanced, did that get in?

HMjr: Well they've got something in it, but - and then they make a lot of statements about economy which no one will believe, you know?

E: Yes, hell!

HMjr: It's unfortunate.

E: All right, then.

HMjr: Thank you, Marriner.

E: Goodbye.

TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE June 26, 1936.

TO Mr. Oliphant,
FROM W. R. Johnson.

Re: German Subsidies.

Mr. Graeme K. Howard, General Manager, General Motors Overseas Operations, called to discuss the general German situation. An interesting item of information was that the German subsidiary of General Motors receives a 40% cash subsidy on export sales, which is paid from a fund raised in Germany by home consumption taxes. The subsidiary does not export to the United States. This is apparently a subsidy which the German Government has assured us is not used to aid exports to the United States. Mr. Howard regretted any hindrance to German-American trade, but readily perceived the mandatory nature of our countervailing duty law.

The State Department, in a letter of June 23, signed by Assistant Secretary Sayre, calls our attention to a telegram from Pape Williams and Company, New Orleans, which alleges that the sale of large quantities of American cotton now held at Bremen, Germany, will be endangered by our countervailing duty action.

Correspondence received across my desk indicates that importers of German cameras have circulated dealers in photographic supplies with the suggestion that they direct a barrage of protests to the Treasury.

Numerous letters from their constituents are being transmitted to the Treasury by Members of Congress, but the latter have indicated no personal interest in the countervailing duty order.

Edward P. Sharretts, a prominent member of the Customs bar, told me that he is advising his clients to forget political pressure and to present actual situations to the Treasury for rulings as to whether the countervailing duties apply. Two or three importers have asked how they may establish the fact that their imports are not subsidized. The National Council of American Importers and Traders have asked that some means be devised whereby importers can satisfy the collector of customs that an import transaction has been financed with gold exchange marks without any direct or indirect aid from the German Government, and thus avoid the requirement that estimated additional duties be deposited.

Our Treasury Attache at Berlin has cabled a suggestion that some basis for cooperation between German authorities and our foreign investigators be discussed with the German delegation arriving on June 29 to discuss the countervailing duty order.

W. R. Johnson

noted
JL

June 30, 1936

Mr. Monick called on the Secretary today at 12:30 o'clock. Mr. Taylor and Mr. Lochhead were also present. The following is stenographic report of their conversation.

M: I shall read you a cable I received from Paris, which reads this way: "Express thanks and deep gratitude to President and Secretary Morgenthau. Congratulations for yourself. Intentions of Government are the following: You take act -- I don't know how you would translate; I think it would be you take note -- of the preliminary talks. You come back as soon as possible as was first intended to see what the next step will be."

So here we are! I think -- and I must say that I must know, by something that came to me from Baumgarten, the impression of our talks here has been very good in Paris, but I think -- if I know how to read between the lines of the cable -- first, that very likely I shall be the English choice to make the de marche in London if the de marche is to be made, because I think we are afraid in Paris about the British people would be a little, let's say not suspicious -- but the Financial Attache in London came here and that it would be somebody else who would make the de marche in London, so I think it is the intention that I make the de marche myself, which I think is the right way to do and which was first intended when I saw you and told you it was the intention of the French Government to see me make a very short trip and come back as soon as possible.

Second, I can't help to think that the French Government do not feel the same as they felt when I sailed. When I sailed -- it was on the 14th of June -- we had lost the week before 1 billion 500 million francs; just two days before, still 800 million francs, and there was a little feeling of uneasiness which was certain. I think now that they feel the breathing spell today and that we must not rush anything, in order not to make a faux pas. That's why they asked me to come back and I really think after our second talk here, I cabled myself that I thought I would better to have stayed here until the angle of the thing gets settled. I think the President sticks to his first intention, to have me come back. So I do not think we can go very much further than we have gone before.

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All that I can say is that I am encharged to tell you that we are all very grateful for what has been done here and it is the first time we have the hope to see the thing consummated. Now, may I say, Mr. Secretary, that I am in a way a little sad to leave because I would have loved so to see the thing go in a quicker way, and even, may I say with you, well, I was told when I came here that you would not tell me much and you would be extremely reserved and I did not find that at all. I found that you were extremely frank about everything.

HM,Jr: That's right.

M: And we went even further still than I hoped myself. Well, may I ask your personal confidence.

HM,Jr: Certainly.

M: May I ask you, before your people, and let us say that as soon as I come to Paris it is quite likely that I shall have to get in touch with you.

HM,Jr: Yes.

M: I will say will you, not myself alone, but with Baumgarten, who is the official in charge, and who would be the man in Paris who would have your whole confidence and with whom I could keep in touch very confidentially with you?

HM,Jr: That's Cochran.

M: That's Cochran. I supposed so. So I can take it that -- I supposed it would be Cochran. I will see Baumgarten. I can tell him anything?

HM,Jr: Anything! You can tell him anything.

M: Anything? Even the most confidential things?

HM,Jr: Absolutely!

M: Now, I think I have last word to say, let's say about general trend of what we are trying to do. I think it is awfully important -- perhaps nothing can be more

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important than this. Of course I noticed -- I could not help but notice, the last words of the President in his acceptance speech, which I think have made very big effect in France. No doubt, liberty, democracy of the people is actually something which is of paramount importance. If I can say something confidential, which is not alone from me, but from some high people in France who begin to see the situation -- we feel that in Europe there is a big choice which will have to be made anyway this summer and this choice is, I would like to express myself as clearly as possible, the choice is something which socially, financially, economically, looks very much like the solution of Germany, Italy and Russia, and if I put it Italy with Germany it is not at all intentional. It is because with the fascists or communists or socialists in Germany you have got one thing, which is, that the State envisages to do everything by itself and to neglect the liberty in the heart of the people and beginning by summer, it seems in France -- perhaps the restriction of exchanges, restriction of trade, you go and you take every day more concerns, more things, are in the powers of State. Each day we squeeze the control of the State killing sometime every thing of liberty and we feel that the President showed in his speech there is perhaps a new socialism, I will call it, coming into the world and I think this socialism, not many people, but some people, know very clearly where it goes. It is an effort to get something which is close to the heart of the small people, but at the same moment to try to keep the feeling of liberty in the people and I think economically and financially we can be more precise on this problem because the way Germany, Russia and Italy are going. It's the State which will step into every activity of the Nation.

The other way is a more subtle way, which I think is initiated in Great Britain and here perhaps without knowing very well where you are going exactly, but I think that some people, especially in France, and myself I know perfectly well where we can go by this way. That would not need to take into the hands of the State everything, but to control money. I mean money, like a little dock, by which you can float the money in such direction to make money plentiful. By that way, to wipe out of the hands of the big capitalists -- not the capitalism as initiated in Russia, which is folly, but to cut down

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the cost of capital and to have by some way of State initiative to have money very abundant, plentiful, so that everybody coming into the world has a chance to live. And really, let's go farther than that. You see, what I am speaking of now are not only my ideas, but some ideas of Blum, Herriot and some of those people. What is the choice? I do feel that for statesmen the will, the acting, is not to try to act on everything, but just to be at the helm of a ship and to give the ship its direction -- exactly what President Roosevelt does.

I think it is something of an emotional nature, something really curious to see that the French revolution preceded the American revolution and that now the New Deal has preceded something which is going on in France. But we have the choice in France. Perhaps when we take the helm of the boat we shall miss and go to the rocks. I really don't know. But I think there are some people in France who are really good people who know the choice and know better and better and better that we are in the right direction, so I think it is exactly that we are initiating now.

HM, Jr.: Well, Mr. Monick, I want to say this: I think your coming here has been kept in strict confidence.

M: Absolutely!

HM, Jr.: And when you go back, I hope that you will continue to keep the conversations that you had with the President and with me in confidence.

M: Absolutely! You can rely on me for that. I think the less will be known about those conversations, the more successful my mission will have been.

HM, Jr.: Because there has been every protection from here. Nobody knows.

M: Nobody. Nobody.

HM, Jr.: And if when you get back it should be said that Mr. Morgenthau said this and Mr. Monick did this in Washington and they will come to me and say, Why didn't you say something? Why was he permitted to see the

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President without any announcement?

M: It is impossible to even imagine.

HM,Jr: So when you go back I hope your trip will be treated in the same confidence as it was on this side.

M: You can rely. Nothing will be said.

HM,Jr: Because it will be very unfortunate if after you return, it began to leak out.

M: You can rely.

HM,Jr: I lay considerable importance on that.

M: I realize it. I think I was fortunate ..

HM,Jr: You are sailing now?

M: I am sailing on the Normandie. My name will not be on the passenger list.

HM,Jr: What's the Chief Purser's name?

M: Mr. Villar.

HM,Jr: If you talk to him, give him my very best regards. You know, Mrs. Morgenthau and I came back on the Normandie. If you see Mr. Villar, give him my very best regards.

M: I certainly shall. I am deeply grateful to you for your talks, I must say.

HM,Jr: Well, it's one of those things. Of course, if you had been here officially, I would like to have entertained for you.

M: Not at all.

HM,Jr: But it was so secret, I just could not entertain for you. I hope when you get back you will be able to interpret a little bit better how we feel here and just how far we can go.

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M: Right. The question of debt, we had no time to take it up. I told you when I came that in our first conversation I had no power to negotiate a debt understanding. You can rely that whatever the Government in its power, after election of the President, the question of our war debts will be taken. I do not think it will be taken officially, but will have to be taken unofficially, but you can rely. I suppose you know that when I was here as commercial attache I had a plan. And so we cannot do much, but what we can by all means we shall do it. And to make progress, as I knew, with your Senate is such a difficult thing to go through such a plan. My plan was to link the beginning of your reconstruction with something helpful for France and Great Britain. But I have something in my heart at the moment. I would wish so much to have gone through with it. I think we shall have to come back to something of this kind, one day, which is that my country -- which is, to try to link what I call your second effort, when the President is elected, to put a plan -- I would like at that moment to have this question linked -- in other words, to see the President of the United States say: we are still to go through this depression -- 3, 4 or 5 billion dollars to spend. Before we can go through the depression I would like -- and this, I think, you must keep in your mind as a general direction -- I would like at that moment from France to come to make an effort about the debt question and rely on this general idea that whatever more is to be spent to go through the depression 4 or 5 billion dollars, will be redeemed one day by the war debts, by some war debt scheme. You understand my point? It was really the point under which I started when I tried to put it through when I was financial attache and, you know, I think it was very unfortunate that somebody here in the Treasury was not broadminded and did not have intellectual largeness in his mind to appreciate the plan. I know.

HM, Jr: I am lunching with the President in five minutes, so I am going to have to stop.

M: Yes

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HM, Jr.: Please give Mr. Auriol my very best wishes. I wish him all kinds of success. I feel that your coming ~~to~~ here made things easier to understand on both sides and it is the exchange of views which gradually will bring about the stabilization we all hope for, but it takes times.