

House Debate on the Sixteenth Amendment

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A previous essay recounted the U. S. Senate debate on the proposal to amend the Constitution, which became the Sixteenth Amendment granting Congress the power to levy an income tax. This essay presents the debate in the U. S. House of Representatives. The text that follows is verbatim from the official Congressional Record [1]. The proposed amendment was a long-standing goal of the Democratic Party, and came about as part of a debate on the adjustment of the tariff. Some of the debates refer to previous Supreme Court cases (Hylton and Pollock); they are described in reference [2].

It began in the House with the notice on 8 Jul 1909 that the Senate had passed it as Senate Joint Resolution 40; the House took up debate and passed it on 12 Jul 1909. The page numbers shown in bold are those from the Congressional record (p. 4317 is from 8 Jul 1909, and the remainder is from 12 Jul 1909); the page breaks are approximate to the nearest paragraph.

The 16th Amendment was ratified by the required number of States 3 Feb 1913, and the income tax law was passed shortly thereafter. A future essay will contain my opinion on the debate; for now, here is the text from the Congressional Record.

p. 4317 (8 Jul 1909)

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed, without amendment, joint resolution and bill of the following titles:

H. J. Res. 54. Joint resolution authorizing the Secretary of War to loan cots, tents, and appliances for the use of the forty-third encampment of the Grand Army of the Republic, at Salt Lake City, Utah; and

H. R. 9609. An act to grant John Rivett privilege to make commutation of his homestead entry.

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

S. J. R. 40. Joint resolution proposing an amendment to the Constitution of the United States;

S. 2459. An act to revive and amend an act entitled "An act to authorize the Minnesota, Dakota, and Pacific railway to build a bridge across the Missouri River"; and

S.1441. An act to reenact and amend an act entitled "An act to authorize the construction of a bridge across the Missouri River and to establish it as a post-road".

p. 4389 (12 Jul 1909)

INCOME TAX --- CONSTITUTIONAL AMENDMENT.

Mr. PAYNE. Mr. Speaker, I should like at this time to call up and to consider in the House the resolution of the Senate (S. J. R. 40) proposing to amend the Constitution of the United States in regard to taxes on incomes. It was reported from the Committee on Ways and Means this morning favorably (H. Rept. No. 15).

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The SPEAKER. The gentleman from New York asks unanimous consent to consider the following Senate joint resolution, which the clerk will report.

The Clerk read as follows:

Joint Resolution (S. J. R. 40) proposing an amendment to the Constitution of the United States.

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Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

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

Mr. CLARK of Missouri. Mr. Speaker, is the gentleman from New York calling this up under suspension of the rules, or in the ordinary course of procedure?

Mr. PAYNE. Rather than wait for the process of getting at it by the rules to-day, I am simply asking to call it up at this time.

Mr. CLARK of Missouri. How much time can we have for debate?

Mr. PAYNE. Mr. Speaker, I am willing to have any reasonable time for debate, if we can have a conclusive vote upon the subject to-day. As far as I am concerned personally, my presence is greatly desired at the other end of the Capitol, or at least it seems necessary, on account of the conference on the tariff bill.

Mr. CLARK of Missouri. Do you know whether my presence and that of the other Democratic conferees is wanted over there? [Laughter.]

Mr. PAYNE. My friend is more favorably situated, as far as that is concerned, so that he can attend to his duties in the House much more easily than I can. [Laughter.]

Mr. CLARK of Missouri. Mr. Speaker, I ask for two hours on a side, one-half of the time to be controlled by anybody who may be named on that side, and one-half by myself.

Mr. PAYNE. Well, I will suggest an hour and a half.

Mr. CLARK of Missouri. Let us have two hours.

Mr. PAYNE. There is very little time asked for as far as I am concerned. I think I can say all I have to say about it in five minutes myself.

Mr. CLARK of Missouri. I can, too; but I never had as many applications for time on any proposition since I have been here as I have on this.

Mr. PAYNE. Then, I would suggest, suppose we have an agreement to have a vote at 4 o'clock, and that gentlemen on that side have two hours of the time and we have an hour and three-quarters on this side.

Mr. CLARK of Missouri. That is all right.

The SPEAKER. The gentleman from New York asks unanimous consent to consider at this time the joint resolution which has just been reported, the vote to be taken at 4 o'clock.

Mr. PAYNE. Not later than 4 o'clock.

The SPEAKER. The vote to be taken at 4 o'clock; that the time from now until 4 o'clock to be for general debate, one hour and three-quarters to the majority side and the balance of the time to the minority. Is there objection?

There was no objection.

Mr. PAYNE. Mr. Speaker, I shall support this amendment to the Constitution for reasons which I will very briefly state.

I have had no doubt, since I first examined the question many years ago, that an income tax was unconstitutional under our present form of Constitution. At the time I arrived at that conclusion the decision of the Supreme Court had been favorable to its constitutionality. Of course the late decision, fifteen years ago, only confirmed my own belief, but it seems to me that it ought to have given notice to all the people of the United States that so far as the present Constitution is concerned, such a law is unconstitutional; that the Supreme Court will not go back on their decision, that the doctrine of stare decisis will come in with renewed force and vigor and overcome any question of doubt that there might be as to its constitutionality, although there is no doubt in my own mind.

Now, it has been suggested that an income tax be placed on the present pending tariff bill. That has been recommended sometimes on the ground that it will furnish an opportunity for the Supreme Court to reverse itself and sometimes by those enthusiastic individuals who want that kind of a tax who believe that the Supreme Court will reverse itself. I am sometimes inclined to think that it is because they want to believe that and want it reversed. I am not in favor of putting any litigation into a tariff bill, and especially when I do not believe such a proposition is constitutional.

As to the general policy of an income tax, I am utterly opposed to it. I believe with Gladstone that it tends to make a nation of liars; I believe it is the most easily concealed of any tax that can be laid, the most difficult of enforcement, and the hardest to collect; that it is, in a word, a tax upon the income of the honest men and an exemption, to a greater or less extent, of the income of the rascals; and so I am opposed to any income tax whatever in time of peace. But if this Nation should ever come under the stress of a great war, exhausting her resources, and the question of war now being a question as to which nation has the longest pocketbook, the greatest material resource in a great degree, I do not wish to be left, I do not wish this Nation to be left, without an opportunity to provide an income adequate to the carrying on of that war.

I hope that if the Constitution is amended in this way the time will not come when the American people will ever want to enact an income tax except in time of war.

Mr. GARRETT. Will the gentleman yield?

Mr. PAYNE. Certainly.

Mr. GARRETT. Then they would not be rascals in time of war?

Mr. PAYNE. Oh, the difficulties about it would still be there, but I regard the preservation of the national life as more important than the preservation even of the morals of some men. I think the preservation of the Nation is of more consequence than it is to keep even the rascals from the temptation of false and perjured testimony.

Mr. GARRETT. If it agreeable to the gentleman from New York, I want to say that I understood the gentleman to state his objection to an income tax in time of peace was because it promoted falsehood ---

Mr. PAYNE. That is one objection. I do not propose to go into a discussion of it. We have only three quarters of an hour on this side and I wanted to take five minutes to state my views and position.

Mr. SMITH of Michigan. Will the gentleman from New York yield?

Mr. PAYNE. Certainly.

Mr. SMITH of Michigan. Will the gentleman state whether the tariff bill as it passed in the Senate will, in his opinion, yield revenue sufficient in time of peace without an income tax, and inheritance tax, or a corporation tax?

Mr. PAYNE. Well, Mr. Speaker, I do not know how the tariff bill will be passed.

Mr. SMITH of Michigan. I said as it passed in the Senate.

Mr. PAYNE. I made a careful estimate of the revenue that the bill would provide as it came from the Ways and Means Committee. I have not made an estimate since that time. My views were embodied in a few feeble remarks that I made during the debate in the House, and I commend them to the gentleman from Michigan, and he can figure out himself as to whether it will yield enough or not. But I would prefer a corporation tax or an inheritance tax to anything like a general income tax.

Mr. RUCKER of Missouri. Will the gentleman yield?

Mr. PAYNE. Certainly.

Mr. RUCKER of Missouri. Would it not be just as easy for corporations to escape the corporation tax as for individuals to escape the income tax?

Mr. PAYNE. Not by any means.

Mr. RUCKER of Missouri. Does not the gentleman think that if we coupled with it a criminal statute which would put everyone in the penitentiary who sought to evade the income tax it would have a good effect?

Mr. PAYNE. What is that?

Mr. RUCKER of Missouri. Does not the gentleman from New York think that every one of the rascals he speaks of who are likely to evade the income tax ought to be sent to the penitentiary?

Mr. PAYNE. It does not operate so in the old country and they do not get into the penitentiary.

Mr. RUCKER of Missouri. I think in this country where the people will be taxed \$200,000,000 more for their clothes, it would be easier to get these rascals who evade the income tax into the penitentiary.

Mr. PAYNE. Well, the gentleman from Missouri has stated his opinion, and I shall have to decline further interruption on account of my limited time.

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Now, Mr. Speaker, because, in my mind, there is no other way to get this war power that may be sometimes vital to the existence of the country, I am persuaded to vote for this constitutional amendment which

will put it in the province of the Congress of the United States to enact legislation upon this subject and, as I said a moment ago, I hope it will never be employed for any other purpose; but whether it is or not, I deem it essential to the future existence of the Nation, should we have a great war, which God forbid, that we have the power to exhaust every resource of taxing our people to carry on the war with vigor, with the prestige that has hitherto come to the American people, and that we should not have the national hand paralyzed because of its inability under the Constitution of the United States to reach its hand out and gather these taxes and all others from the citizens of the United States, whose Government we are protecting. Mr. Speaker, I reserve the balance of my time. [Applause.]

Mr. Speaker, if the gentleman from Missouri does not mind, I would like to yield five minutes to the gentleman from Massachusetts [Mr. McCALL].

Mr. McCALL. Mr. Speaker, I imagine that nothing which I may be able to say will defeat the prearranged programme and prevent the passage of the joint resolution, but for the House to perform its part in such a solemn transaction as amending the Constitution of the United States without having the form of the amendment seriously considered by one of its committees strikes me as a proceeding of extraordinary levity. Mr. Speaker, if I were in favor of an income-tax amendment, I should be decidedly opposed to an amendment in the form of that which is now pending before the House. By doing away with the rule of apportionment it abrogates one of the fundamental principles of the Constitution. What was the great historic contest in the Constitutional Convention? It was between the small States, selfishly struggling for more than their fair share of power, and the large States, representing the Democratic principle and trying to preserve some measure of equality between the man in a large State and the man in a small one.

The small States finally gained an equal representation in the Senate, with the great powers of that body. That is the price the large States paid for the Constitution, but they managed to secure some compensation, and there was conferred upon the Representatives chosen according to population peculiar powers over taxation, which is especially related to liberty. The House of Representatives was not merely given the power to originate all bills raising revenue, but it was provided by the very clause of the Constitution that fixed the basis of representation that Representatives and direct taxes should be apportioned among the States according to population. The framers of the Constitution did not desire to expose the small States to the temptation of combining and plundering the large States. They thought so much of this limitation upon taxation that they again referred to it in the Constitution, and there are two clauses which provide that direct taxes shall be apportioned among the States according to population. They did not withhold the power to impose direct taxes, but they declared that when they were imposed the people of the small States should pay their share, man for man with the people of the large States. Now, the undemocratic feature of our Constitution has been vastly augmented by the admission of small States.

In the Constitutional Convention, States having only one-third of the population of the country were in a majority; but to-day States having only one-sixth of the population elect a majority of the Senate, and yet it is proposed to throw away incontinently this important safeguard of the Constitution, this great democratic feature, and the Democratic party proposes to take a hand and throw the rule of apportionment to the winds. I submit that if you are going to give up the rule of apportionment, you should confer upon the representations of the people some compensating power to take the place of the safeguard you take away. You should at least provide that the House should have the sole power to originate income-tax bills and that the Senate should not amend them; that its power should be confined either to vetoing or accepting them ---- the power which the House of Lords in Great Britain has in reference to all tax bills.

The gentleman from New York, my friend Mr. PAYNE, represents the greatest State in the Union. It seems to me he should be peculiarly concerned here, as his predecessors were in the great constitutional convention, to preserve in some degree the democratic principle. I have great respect for the man in Nevada, but it violates every notion of equality to give him in important processes of taxation 200 times the power of the man in New York. It is said that this tax is for use in time of war. That argument was made with great force in another body, but it strikes me that the ingenuousness of it would be more apparent if it were not proposed at this very moment, in a time of profound peace, to stretch the Constitution in order to pass as much of an income-tax measure as we may pass.

The SPEAKER. The time of the gentleman has expired.

Mr. McCALL. Mr. Speaker, I would like a couple of minutes more time.

Mr. PAYNE. I yield to the gentleman. Does he require more time than that?

Mr. McCALL. I think two or three minutes more.

Mr. PAYNE. I yield five minutes to the gentleman.

Mr. McCALL. So, Mr. Speaker, while they say that they desire this power for time of war, we see to-day in time of peace an attempt to exercise the power to its utmost extent. And why not, then, limit it expressly to time of war? Why not, for the just protection and the equal rights of the people of New York and of the other great States of this Union, five of which probably will pay nine-tenths of an income tax, although they will have only one-ninth of the representation in the Senate -- why not preserve the limitation upon the power of the Central Government? Why drag every governmental power to Washington so that a vast centralized government may devour the States and the liberty of the individual as well? I say this amendment should be more carefully considered than it has yet been considered.

It is liable to go into the Constitution of the United States and be forever a part of the organic law in the form in which it has been. I may almost say, extemporized or improvised. The character of the argument which has been made, that this tax is for use in time of war, leads me to observe that the chief purpose of the tax is not financial, but social. It is not primarily to raise money for the State, but to regulate the citizen and to regenerate the moral nature of man. The individual citizen will be called on to lay bare the innermost recesses of his soul in affidavits, and with the aid of the federal inspector, who will supervise his books and papers and business secrets, he may be made to be good, according to the notions of virtue at the moment prevailing in Washington. And, incidentally, and since every business secret in the country can be had access to by the authorities at Washington, the citizen may be made to see his political duty if you happened to have a President who confused the attainment of his ambition with the highest good of the universe and was willing to abuse his power in order to coerce the citizen. You are creating here an ideal condition for corruption and for the political Jack Cade of the future to levy blackmail.

And so, Mr. Speaker, believing that this amendment, with no compensation whatever, does away with an important part of the great compromise of the Constitution, and that it is not limited to the emergency for which it is said to be intended, I shall vote against it. The amendment has not carefully been considered by a committee of this House or by anybody else in the United States that I know of, unless possibly by Mr. William J. Bryan. [Applause.]

Mr. DOUGLAS. Will the gentleman yield for a question, if he has the time?

Mr. McCALL. I have completed what I have to say, but I shall be very glad to hear the gentleman's question.

Mr. DOUGLAS. I want to ask the gentleman what he has to say as to this question in connection with his remarks whether or not a large preponderance of the membership of the House from large States will not be a sufficient safeguard when the time comes to pass an income-tax amendment?

Mr. McCALL. That is merely in the form of veto. They do not have their proportionate share in legislation, when you take into account the whole legislative machine.

Mr. DOUGLAS. They have in the House.

Mr. McCALL. It would amount to a mere obstructive power, but the tax can be remade in the Senate and mixed up with other taxes, and the Representatives may be obliged to yield.

I want to say, if my time has not expired, that you had better wait ---

The SPEAKER. The time of the gentleman has expired.

Mr. McCALL. My time has expired, and I would ask a moment more.

Mr. PAYNE. I have given the gentleman ten minutes.

Mr. McCALL. Will you not add one minute more?

Mr. PAYNE. Oh, well, I yield to the gentleman for one moment.

Mr. McCALL. I desire to say this, Mr. Speaker, that it may be well to wait, before we pass this amendment, and witness the operation of the proposed corporation-tax amendment, if it shall ever pass. I believe, from the signs that we have already witnessed, that it is predestined to as great a measure of public odium and unpopularity as any tax bill ever received. [Applause.]

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Mr. PAYNE. I yield one minute to the gentleman from Minnesota. [Mr. TAWNEY].

Mr. TAWNEY. In that minute I want to announce to the House that on Thursday next I shall present an appropriation bill carrying certain very necessary deficiency appropriations, and I trust that we will have a full attendance on that day.

Mr. CLARK of Missouri. I desire to ask the gentleman this question: Suppose it should turn out that the House adjourns until tomorrow or the next day, then are we to understand that you are going to present it on Thursday?

Mr. TAWNEY. I am going to present it on Thursday.

Mr. CLARK of Missouri. You are going to present it Thursday, anyhow?

Mr. TAWNEY. My understanding is that if the House is in session to-morrow, it will only be for debate, and Thursday will be for the transaction of business, and I trust we will have a full attendance.

Mr. CLARK of Missouri. I only wanted to understand.

The SPEAKER. Does the gentleman from New York reserve his time?

Mr. PAYNE. I reserve the balance of my time.

Mr. CLARK of Missouri. I yield to the gentleman from Texas [Mr. HENRY] for half a minute.

Mr. HENRY of Texas. In that half minute I just desire to offer an amendment in my time and have it pending. It is to strike out of line 5 the words "which, when ratified by the legislatures of three-fourths of the several States" and insert "which, ratified by conventions of three-fourths of the several States."

The SPEAKER. The gentleman can give notice and have the amendment read.

Mr. HENRY of Texas. I give whatever notice is necessary.

Mr. PAYNE. This is presented for the information of the House.

The SPEAKER. It is for the information of the House.

Mr. HENRY of Texas. I ask that it be read at the Clerk's desk, and give notice that I will offer it.

The SPEAKER. The Chair would suggest that, by unanimous consent, the House is to vote at 4 o'clock on the closing of debate.

Mr. CLARK of Missouri. Mr. Speaker, I ask that I may be notified when I shall have occupied ten minutes. My own opinion is that there is not very much necessity for speech making on this occasion or on this proposition. The income tax is a Democratic proposition. We put it in the tariff bill of 1894. A very large majority of us have been in favor of it ever since. We wrote it in our platform of 1896 and have advocated it ever since. We proposed it as part of the war-tariff bill of 1898, and Republicans voted it down with practical unanimity. We are in favor of it now; and we welcome the conversion of the Republican party to another Democratic principle. [Loud applause on the Democratic side.] Better late than never. One by one the roses fall, and one by one you adopt the planks of our platform. [Renewed applause.] The whirligig of time brings its own revenge. What was denounced by Republicans in 1896 as anarchy is advocated by them to-day as sound political gospel. My own judgment is that the wit of man never devised a fairer or juster tax than a graduated income tax. Individually I am in favor of the Bailey-Cummins proposition. I do not believe that the \$5,000 exemption is too much. If I were to change the size of the exemption at all, I would make it larger rather than smaller.

The exemption is not for the benefit of the man who is exempted, but all exemption laws, in the States or in the Nation, are for the benefit of the public. It is monstrous to say --- I do not care what the gentleman from Massachusetts or anybody else says --- it is monstrous to say that the accumulated wealth of this country shall not bear its just proportion of the public burdens. [Loud general applause.] Everybody -- - everybody in this House, at least --- knows that we had two income-tax laws prior to the act of 1894. They were held to be constitutional. I have said hundreds of times --- and I repeat it now --- that the decision on the income-tax law of 1894, when the peculiar circumstances under which it was rendered are considered, is one of the great blots on the judicial system of this country. I believe as firmly as I believe that I must die some day that if we had been engaged in a war with a first-class power in 1898, instead of in a war with Spain, Congress would "incontinently," as the gentleman from Massachusetts [Mr. McCALL] says, have reenacted the income-tax law of 1894 and that the Supreme Court of the United States would have held it to be constitutional. [Applause.] Nobody had any doubt of that then, and nobody has any doubt of that now. The vast majority of the American people have always believed the income-tax law of 1894 constitutional. We would much prefer making an income tax part of the tariff bill than to vote for this joint resolution submitting an income-tax constitutional amendment for ratification to the States; but as it has been demonstrated that we cannot secure the passage of an income tax through this Congress we will do the best thing possible under the circumstances and vote for this joint resolution, hoping for the best.

Gentlemen need not deceive themselves. The whole situation is that there is going to be a historical fight, a bitter fight, a fight to the finish, in various States on this proposition if this House agrees to the proposition submitted by the Senate. Democrats will force the fighting all along the line, as they have

forced it since 1894 and as they have forced Republicans to advocate the submission of a constitutional amendment authorizing an income tax. It only takes 12 States voting against it to defeat it. It only takes holding up the state senates in 12 States to defeat it. While I am at it, I will give my own opinion very frankly that the proposition as submitted by the Senate on this occasion is simply a scheme to keep Congress from passing an income tax now. [Applause on the Democratic side.] But, nevertheless and notwithstanding, I believe that the justice of an income tax can be so clearly demonstrated to the people that the necessary number of States will ratify it, very much to the disgust of the Republican leaders who are advocating it to-day.

The gentleman from Massachusetts [Mr. McCALL] talks about the sacredness of the Constitution. I am glad to hear a Republican say something in that behalf. [Laughter on the Democratic side.] Of course the Constitution is sacred, but the fathers of the Republic acted according to their lights and according to the circumstances under which they lived.

We must act according to our own lights and the circumstances under which we live. At the time when those clauses that the gentleman from Massachusetts talks about were put into the Constitution, population was about equally distributed, and wealth was also; but times change and men change with them, and things change, too. I do not want to say anything offensive, but this illustrates my proposition: I understand the fact to be that 11 per cent of the voters in the State of Rhode Island control both houses of that legislature. That grows out of the fact that the basis of apportionment for electing the state legislature has not changed much since the Indians were driven out of the woods. In Rhode Island the town is the political unit. When that apportionment was made, the towns in Rhode Island were substantially equal in population; but new factors in population and business have entered in, and the city of Providence now contains more than half of the population of the entire State of Rhode Island; but the number of members it has in the legislature has not changed, and I understand the fact to be that the city of Providence has one state senator and two members of the house.

Mr. CAPRON. Would the gentleman like to be corrected?

Mr. CLARK of Missouri. Yes; I would like to be corrected if I am not right.

Mr. CAPRON. The city of Providence has under the constitution of the State one-sixth of the house of representatives, or 12 members of the house.

Mr. CLARK of Missouri. Does not the gentleman think it ought to have half?

Mr. CAPRON. I do not.

Mr. CLARK of Missouri. The gentleman lives in Rhode Island.

Mr. BURLESON. And is a Republican.

Mr. RODENBERG. There is a limitation on the representation of the city of St. Louis in the legislature in Missouri.

Mr. CLARK of Missouri. I know, but it is no such unfair limitation as that. I just cited that to show how things change with the times.

The Constitution provides that you cannot levy a direct tax except by making it a head tax. That is the plain English of it. No Congress is ever going to order a direct tax under that section of the Constitution except, perhaps, in the stress of a great war with a great power, because it is palpably unjust. In the course of time, for instance, New York has accumulated property faster than any other State in the Union, unless it is Rhode Island, in proportion.

Arkansas has one-sixth as many people as New York has, and would under that provision of the Constitution pay one sixth as much direct tax as New York would, but New York has 30 times as much property value as the State of Arkansas has. So New Yorkers would escape five-sixths of the taxes they ought to pay. The relative situation of people and of States having largely changed, there is no reason why we should longer adhere to that part of the Constitution relative to a head tax and population. Consequently, while Democrats revere the Constitution, they are in favor of amending it so that the swollen fortunes of the land can be justly taxed. The gentleman from Massachusetts [Mr. McCALL] complains that this thing is being done in too much of a hurry, that there is not time enough for debate. There never is in this House and under these rules time enough for debate. Some of us tried to remedy that evil on March 15, and the gentleman from Massachusetts helped vote us down on that occasion. He is estopped from complaining now of the way things are jammed through the House.

A strange thing has happened. During the last campaign President Taft advocated an income tax, and gave it as his opinion that the Supreme Court of the United States, as at present constituted, might hold it constitutional. That was one thing which helped to elect him. In his inaugural address he advocated an inheritance tax. Largely through the influence of my distinguished friend from New York [Mr. PAYNE], chairman of the Ways and Means Committee, the House incorporated into the tariff bill an inheritance tax. Instead of insisting that the Senate agree to the inheritance tax, in the nick of time the base was shifted again and the President sent in a recommendation for a corporation tax.

In fact the newspapers inform us that certain eminent Republican "big wigs," who assemble in another place, are anxious that it shall be known as "the Taft tax." Whether their zeal in that regard is because of their abundant love for the President or because they fear the wrath of their constituents and therefore desire to make a scapegoat of the President this deponent saith not. However that may be, it seems to me that Mr. Chairman PAYNE and his Republican coadjutors on the Ways and Means Committee did not receive a square deal when they were induced to make an inheritance tax part of their tariff bill. On that proposition they have been unceremoniously rolled by the eminent statesmen who meet in another place. The newspapers inform us that, though this corporation tax was cooked up by a coterie of the greatest constitutional lawyers in the land --- not one of whom knew that the income-tax law of 1894 had long since expired by limitation --- it is to be withdrawn and recooked by the aforesaid coterie of the greatest constitutional lawyers now walking the earth. The result of this proposed recooking may prove to be another illustration of the old saw that "too many cooks spoil the broth." Unless these widely exploited constitutional lawyers know more now than they did when they first cooked up the corporation tax, it may turn out that this whole corporation-tax business, whose sole intent was to defeat the income tax, is a "comedy of errors" --- perhaps a "tragedy of errors" to some folks I wot of. If Republican Members are depending on that coterie of great Republican constitutional lawyers, who cooked up the corporation tax, for instruction on constitutional points, it is a clear case of the blind leading the blind, and they are liable to tumble into the ditch together.

So we have all three of these propositions pending now in some shape. We have the inheritance tax in the Payne bill; the corporation tax in the Aldrich-Smoot bill; and now we are fixing to adopt an income tax. I do not suppose there are going to be very many votes on the floor of the House against this proposition, because if this proposition should be defeated here to-day, the chances are that this conference that is going on between the two Houses on the tariff bill will last until the first Monday in December. That is all I have got to say about it. We are in favor of it, and I will welcome the aid of you gentlemen over there.

Mr. BURKE of Pennsylvania. Will the gentleman yield?

Mr. CLARK of Missouri. Certainly.

Mr. BURKE of Pennsylvania. The gentleman has stated that if he had his way, he would increase the exemption beyond the \$5,000 mark. I want a little light on this subject, and I will ask the gentleman if he has any objection to stating to the House how much he would increase the exemption, and why?

Mr. CLARK of Missouri. Oh, I do not know. I said if I had my way, I might increase it rather than diminish it; and I certainly would increase it rather than diminish it, and for this reason: Five thousand dollars is not an unreasonable amount for a man to support a family on and educate his children; \$6,000 would not be an unreasonable amount; \$7,000 would not be an unreasonable amount. But I say that when a man's net income rises above \$100,000 a year it does not make any difference to him, practically, whether you take 1 per cent, 2 per cent, 5 per cent, or 25 per cent, as they do in Germany. [Applause on the Democratic side.]

Mr. BURKE of Pennsylvania. That does not answer the question. Will the gentleman state, so that those who desire to follow him may follow him intelligently, what figure he would place the exemption at?

Mr. CLARK of Missouri. I said I might put it above \$5,000.

Mr. BURKE of Pennsylvania. How far above?

Mr. CLARK of Missouri. I do not know. I would have to study it.

Mr. BURKE of Pennsylvania. The gentleman does not seem to know any more about the figure at which he would place it than he does about the other propositions involved.

Mr. CLARK of Missouri. What is that?

Mr. BURKE of Pennsylvania. The gentleman stated that he would place it above \$5,000, and I would like to have the gentleman state the precise figure how far above he would place it; what would be a fair figure, in his estimation, and why he would fix it at that figure?

Mr. CLARK of Missouri. I would fix it for the public good, whatever figure I fixed. [Applause on the Democratic side.]

I now yield to the gentleman from Alabama [Mr. CLAYTON].

[Mr. CLAYTON addressed the House. See Appendix.]

Mr. PAYNE. Mr. Speaker, I yield ten minutes to the gentleman from Connecticut [Mr. HILL].

Mr. HILL. Mr. President and gentlemen of the House of Representatives, I shall vote against this amendment for the following reasons. In the first place, I do not believe that this extra session of Congress was called to completely change and revolutionize the taxation system of the United States. I think that a question of such magnitude should be submitted to the people and discussed in a campaign preparatory to the presentation of so important a matter as an amendment to the Constitution of the United States. This proposition was found in the Democratic platform and not in the Republican platform on which the presidential campaign of 1908 was won. My understanding is that Congress was called together for the sole purpose of revising the Dingley tariff law on the basis of the difference in the cost of production at home and abroad, and, so far as the House is concerned, an honest attempt has been made to do that. I voted in the Ways and Means Committee for a supplement to that revision in the shape of an inheritance tax. My judgment was then and is now that it was not necessary. I am a firm believer that in times of peace the revenues of this country should be derived from customs duties and internal-revenue taxes, and that if these are not sufficient, as prudent people we ought to reduce our expenses to a point where they will be covered by such revenues; and yet, under all the circumstances, and realizing that the inheritance tax would bear hardly upon the people of my State, I voted for an inheritance tax.

I do not know now but that I may ultimately vote for a corporation tax. My mind is not yet made up on that question. I shall not vote for an income tax. I agree with the chairman of the Ways and Means Committee [Mr. PAYNE], who made the opening remarks in this discussion, that we ought to have the power to lay an income tax in time of war, but I am not in favor of giving this Government the power to lay an income tax in time of peace. With an amendment limiting it to time of war or other extraordinary emergencies, I would gladly vote for it; yes, I would vote to take every dollar of the property of every citizen of the United States, if need be, to defend the honor, dignity, or life of this Nation in the stress of war; but when it comes to a question of current expenses in time of peace, I would cut the expenses of the Government so as to keep them within our natural income.

We are a Nation of 90,000,000 of the most extravagant people on the face of the earth, and yet we are now pleading that the system of taxation which the fathers of the Republic provided and which for more than a century has met all expenditures and furnished a surplus besides, from which we have reduced our national debt incurred in war time faster than any nation on earth ever reduced its debt, that such a system is not sufficient to meet our ordinary peace expenses.

Stop a moment and consider what we are doing in voting to give this Government the power to lay an income tax in time of peace. I know of no better measure of the way in which this burden would fall on the various States in the Union than to judge of it by the inheritance tax laid to meet the expenses of the Spanish-American war, for the last income tax that was collected from our people was back in the civil-war period, and conditions have mightily changed since then; but we did have an inheritance tax in 1900 to 1902.

The last full year of that tax showed as follows: The State of New York paid \$1,608,000 of it; the collection district of Connecticut and Rhode Island, \$660,000; the State of Pennsylvania, \$641,000; the State of Massachusetts, \$559,000; the State of Illinois, Mr. Speaker, paid \$325,000; making all told in those five collection districts \$3,795,000 that was raised out of a total of \$4,842,000 in the last full year of this tax, so that of the entire amount collected from the inheritance tax in the whole Union six States paid three-fourths of it.

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Let me give you a more startling illustration than that. Take the collection district which I have the honor to represent in part, the revenue office being located at Hartford and the collection district including Connecticut and Rhode Island. That district paid \$660,753 of that inheritance tax in the year ending June 30, 1902. How many other States did it take to equal that amount? Permit me to name them to you; they are

as follows: Alabama, Arkansas, Colorado, Wyoming, Florida, Georgia, Territory of Hawaii, Indiana, Kansas, Oklahoma, Indian Territory, Kentucky, Louisiana, Mississippi, Michigan, Minnesota, Nebraska, New Mexico, Arizona, North Carolina, South Carolina, North Dakota, South Dakota, Oregon, Washington, Tennessee, Texas, Virginia, West Virginia, Wisconsin, California, Nevada, Missouri, New Jersey, and Ohio. All told, 35 States paid \$31,000 less than the little States of Connecticut and Rhode Island, and yet you come and ask me in time of peace and to pay the ordinary current expenses of this Government to vote now for a constitutional amendment which will enable these 35 States to impose a far greater tax upon my people. But it is claimed that the property in these Eastern States escapes taxation. That is not true. In the State of Connecticut more than 80 per cent of all the expenses of our state government is now paid by corporations, and during the past ten years no state tax has been laid upon our people, but the whole amount has been met by corporation, inheritance, and other forms of direct taxation imposed by the State. Every corporation in the State is taxed; every legacy under the inheritance-tax law, which we have, pays its fair share.

For more than two centuries our people, by rigid economy and great industry, in the face of conditions which would have discouraged almost any other people in the world, have built up a prosperous community and developed a State, and have done this at their own expense. To-day we are spending millions of dollars for good roads and other public improvements. We have never asked the General Government to share with us in the cost of these things.

To-day the State of New York is spending \$100,000,000 in the construction of a canal to connect the Lakes with the ocean and another \$100,000,000 in the improvement of its highways, and doing it at its own cost, without asking for any contribution on the part of the General Government.

I believe that such a work as the Panama Canal, costing as it probably will \$500,000,000, is a fair and proper call upon all of the people of this country for contributions, through a general income tax, to meet such expenditure; but you and I know that there are projects now pending by which the Federal Treasury will be called upon for at least \$500,000,000 for the canalization of the Mississippi River and other inland waterways, largely local in their character; that a demand is being made for an annual contribution from the Federal Treasury of \$50,000,000 for the irrigation of the arid lands of the West, which means five hundred millions more in the next decade; and that the project of the improvement of the highways of the whole country, through the aid of the National Treasury, has only been held back during recent years by the most strenuous exertions on the part of the leaders in Congress. How much of an obligation upon the National Treasury such a movement would involve no living man can even estimate, but certainly a thousand millions of dollars would be but a drop in the bucket; and the project once entered upon, the maintenance would be more costly for all time to come than even the original construction.

Is it fair now, after two hundred years of expenditure on our part that you should come and ask us to vote to tax ourselves in time of peace for a duplication of these things in all of the new and undeveloped States of the Union? It is not because our people desire to avoid taxation, and, as I have shown you, the accumulation of wealth in these Eastern States does not escape a fair and just charge upon it. We are ready to vote for an income tax to meet any emergencies which may arise in this Union and to stand by the Government in time of war; but do not ask us, at least without consultation with our people at home, to put this burden on them in addition to one already severe because of local expenditures, made necessary by our geographical position, but cheerfully assumed for the general good. [Applause.]

Mr. PAYNE. Mr. Speaker, I yield five minutes to the gentleman from Iowa [Mr. PICKETT].

Mr. PICKETT. Mr. Speaker, I had not purposed participating in this discussion until I listened to the remarks of the distinguished gentleman from Connecticut [Mr. HILL] who has just had the floor.

He urges as one of his objections to the passage of the pending resolution that it is a matter of importance, and therefore should be considered with greater deliberation. The same objection was also urged by the gentleman from Massachusetts [Mr. McCALL].

Whether Congress does or does not have power to impose an income tax under the Constitution, in view of the decision of the Supreme Court in the Pollock case; whether the Federal Government should or should not have the power to impose such a tax; whether there should be a constitutional amendment making the power of Congress in respect thereto clear and unquestioned, the merits of an income tax as a method of providing revenue for the maintenance of the Government, and, in brief, all phases of the broad question have for years been considered, not only within legislative halls, but by the leaders in the public affairs of our Nation, past and present, and by the people themselves.

The issue presented by this resolution is not the enactment of an income-tax law, as some gentlemen would seem to think, but whether the National Government should have the power to do so.

Personally I believe that the Federal Government now has that power, that the decision in the Pollock case was not in harmony with a long line of prior decisions, and that a resubmission of the question would result in a reversal of the rule laid down in that case. This position finds support among many of the ablest lawyers of our country, and found support by a minority of the court which rendered the decision in the Pollock case.

I do not agree with those who affirm that the confidence of the people in our judiciary would be impaired in the event of a reversal by the Supreme Court of its former decision, or that a popular campaign would be inaugurated with a view of seeking to influence the decision, or that, in the event the court did not yield to the popular view, a breach would be created between the people and the judiciary. I am confident that the people of this country would maintain, in the interim pending a decision, the dignity that ought to be preserved toward our highest tribunal and accept with respectful acquiescence any decision that would be given. Nor do I feel that the esteem of the people for the judiciary would be lessened by a reversal of a former decision. Reversals by courts of last resort, while not common, are not after all so rare. In fact, it would not be the first time that our highest tribunal has changed a rule announced in prior decisions. My regard for our judiciary is such that I would not do anything directly or indirectly to diminish the high place our Supreme Court does, and ought to, occupy in the confidence and respect of the people, or the prestige that must necessarily attach to the final decrees of this separate, independent, and coordinate department of our Government, which is to my mind one of the strongest safeguards of the Republic.

These considerations are not, however, involved in the resolution before us. The only question now presented is, whether the Constitution should be amended, so that the right of the Federal Government to impose an income tax will be clear and unquestioned. That the Federal Government should have that power is not open to argument. How that power should be used will be a matter for future legislative consideration.

While entertaining the views I have heretofore expressed relative to the constitutionality of an income tax, and the propriety and wisdom of again submitting that question to the courts, I am willing, for the purpose of eliminating any possibility of the conditions anticipated by some, as before suggested, to join most cordially in the support of a constitutional amendment directly granting the power to impose such tax, the necessity and wisdom of which must be conceded.

I do not desire at this time to discuss the merits of an income tax, although I am free to say that it seems to me a fair method of requiring the property and wealth of the country to contribute its just share toward the maintenance of our Government, and more equitable by far than some of the methods suggested. I refer to it at this time and in connection with the remark of the gentleman from Connecticut [Mr. HILL] for another reason and for the purpose of another application.

It seemed to me when the gentleman from Connecticut [Mr. HILL] was urging with so much earnestness that we take more time to deliberate upon this resolution that his words would have carried the added force of consistency had his voice been raised and his vote been cast against the rule adopted by the House last Friday, which prevented any deliberation or consideration whatever by the Members of the House of the corporation tax amendment and other vital and material amendments which the Senate made to the Payne bill. His objection, urged now with slight, if any, application, would have applied with cogent force against that rule.

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Let me allude briefly to the corporation-tax amendment and the manner in which it was presented to this body. In his inaugural address the President, in calling attention to the deficit between our income and expenditures and the necessity for formulating a revenue bill that would secure sufficient income, made the following recommendation:

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

This recommendation was considered by the Ways and Means Committee, which reported an inheritance tax as a part of the Payne bill, and it was approved and passed by the House.

After the bill reached the Senate, and as late as June 16, the President sent a special message to Congress recommending a corporation tax, and an amendment providing therefor was incorporated in the tariff bill by the Senate.

Immediately after the bill came back to the House a rule was reported under which the entire bill was sent to conference without any opportunity whatever for discussion or consideration by the House.

Let me compare the pending resolution with the proposed corporation tax, without taking into account any of the other important amendments made by the Senate to the Payne bill.

The resolution is simple in construction and covers but one subject and one purpose. It is formulated in clear and unambiguous terms, leaving no possibility for doubtful construction. It involves only the power to impose an income tax. All the questions incident to an income tax have been weighed and studied for years, as I have suggested. For the consideration of this resolution four hours have been set aside for discussion by the Members of the House.

How was it as to the corporation tax? It came before the House for the first time in the manner stated; in effect, it was an original and substantive measure of great importance. It involves a fundamental departure in our method of taxation. It involves, moreover, the relation of the Federal Government to the state governments, and the extent to which the Federal Government should exercise jurisdiction, not only over corporations engaged in interstate business, but over those engaged in business of purely local character, and thought by many to be within the exclusive jurisdiction of the States. It is as pregnant with questions growing out of our dual system of government as any measure that has been presented to Congress in years, and one in which the people are vitally interested.

The measure, as I have stated above, did not originate in this body; it came before us for the first time as an amendment to the Senate bill; it was referred to no committee, and did not have the recommendation of any Member of this House. Yet, Mr. Speaker, under the rule which was adopted last Friday, the Members of this House waived their responsibility for this important measure, and surrendered their right to discuss and consider it. I venture to say that such action on a measure of so vast importance, so comprehensive in character, is without a precedent or a parallel in the history of parliamentary procedure.

Mr. Speaker, that rule had the support of the gentleman from Connecticut [Mr. HILL] and of the gentleman from Massachusetts [Mr. McCALL], both members of the Ways and Means Committee.

Mr. Speaker, I voted against that rule. I did so because I believed that the Members of the House had the right to consider the corporation-tax amendment; that it should have been subject to the usual legislative procedure; that we should have had the right to amend it if we so desired; or to dispose of it as our best judgment would dictate. Are we, as Members of this body, ready to go on record as conferring a proxy upon others to act for us on matters of such vital concern? How can we maintain the confidence of the people as their only direct representatives by so doing?

Had this measure been introduced at any other time, as an independent measure, who would have had the temerity to contend that the House should resign its responsibility to weigh and consider it? And who would have urged that the House must accept it in toto, because it emanated from any other legislative body?

I submit that those who voted against the rule on Friday last were justified in so doing, and that their action is impregably fortified by reason and the logic and theory of our Government.

I realize that the corporation tax comes before us with the recommendation of the President, for whom, and for whose judgment, I have the profoundest respect. The recommendation should be treated with a consideration commensurate with his high office and great ability. I can not, however, either forget or ignore the wisdom of our forefathers in the distribution of the powers of government. As a part of the legislative branch, we are expected to, and ought to, be guided by our own best thought and convictions --- otherwise our form of government would cease, except in name. I am quite sure the President, with his exalted and patriotic conception of duty wherever vested, would not wish us to do otherwise.

Time does not permit more than a pointed reference to the merits of the tax. It is urged in justification of it that it is a tax on the privilege of doing business as an artificial entity and of freedom from general partnership liability. I concede that corporations should pay something for that privilege, but it does not follow that the Federal Government should charge for it, at least in respect to certain classes of corporations. The privilege is granted by the State and should be taxed by the State.

The right of the Federal Government to tax a privilege granted by a State cannot be justified upon any reasoning other than the power to do so.

Taxation is one of the gravest problems of government. History is replete with illustrations which establish the rule of governmental action, that all doubt as to the justice or equity of a tax should be resolved against it. There is a vital distinction, from a legislative point of view, between the power to impose a tax and the justice of doing so.

I do not affirm that this tax would not be sustained by the courts on the reasoning which controlled the decision in the inheritance-tax case of *Knowlton v. Moore*. My objection goes to the equity of the tax and the unlimited powers given the Federal Government over matters which seem to me to be purely within the jurisdiction of the States.

There are many corporations organized for and engaged in business of a purely local character. They derive no special privilege from the Federal Government as distinguished from individuals. To illustrate: In the city where I live, on opposite corners are two office buildings of the same general character. One of these buildings is owned by a corporation, the other by an individual. The corporation tax will come within the operation of the proposed tax. I cannot reconcile the collection of a tax by the Federal Government on one, for that is what it amounts to, and not on the other. Numerous illustrations of the same character might be urged as between competitors in business in every community.

I am pleased in this connection to follow in the footsteps of one of Iowa's, and the Nation's as well, most distinguished statesmen --- Senator Allison --- whose illustrious services to his country, especially in fiscal matters, is familiar to you all. Several years ago he opposed a similar tax in the principle embodied in the above illustrations.

Over all corporations whose business is confined within the State, the State should have exclusive jurisdiction to tax the corporate privilege. Any other rule would, in my judgment, be an invasion of the just powers of the States. On the contrary, there are many corporations whose business is interstate in character. As to them a different rule should apply, both as to control and taxation.

I noticed in the papers a few days ago mention of an address delivered by the Attorney-General before the State Bar Association of Kentucky, in which he was reported as favoring the enactment of a national incorporation statute for corporations engaged in interstate business. I have long entertained the opinion that some plan of this nature would ultimately be adopted, and would afford the means of settling some of the problems in which the people are so vitally interested, the solution of which, under the present system, we have been unable to reach. If such a plan were to be adopted, the Federal Government could tax for the privilege granted to such corporations.

Of what benefit could it possibly be to the Federal Government, under the proposed law, to examine or require reports from local corporations that are in no way involved in the administration of the federal laws?

It is necessary to the future harmony and integrity of our institutions that we maintain as nearly as possible a perfect balance between the powers of the Federal Government and the state government.

I have grave misgivings whether this tax will reach the end desired, and not fall upon the individual of small and limited means, and in a considerable percentage on the consuming wage-earner.

The SPEAKER. The time of the gentleman has expired.

Mr. PAYNE. I yield two minutes more to the gentleman.

Mr. PICKETT. I regret that time does not permit a further discussion. That there may be no misunderstanding my position, I repeat that I concede the wisdom, propriety, and necessity of the Federal Government bringing the large corporations of this country engaged in interstate business under its more immediate and efficient control. This opinion I have entertained for years, but it seems to me that the provisions of the proposed law are too unlimited, and are an invasion of the rights that properly inhere in the States.

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I hope that if this law is enacted, we will yet have an opportunity to discuss its merits and to amend it in some respects. The original measure has already been amended as a result of the opposition interposed to it, so as to exempt labor organizations and fraternal beneficiary associations, but there are other amendments that ought to be made which I have not the time to discuss.

I submit that in view of the importance of the corporation-tax amendment, that both wisdom and our duty dictate but one course to pursue, and that is, to defer action until we can give to it the study, the research, the analysis, and the consideration to which it is justly entitled. [Applause.]

Mr. CLARK of Missouri. I yield to the gentleman from Kentucky.

Mr. JAMES. Mr. Speaker, I desire to say that the argument of the gentleman from Connecticut [Mr. HILL] does not appear to me one that will stand analysis. He tells us that Connecticut, which has been taxing all the rest of the people of the United States under the protective-tariff system until it has grown so rich, if this taxation upon incomes is placed upon her wealth, would pay more than 30 other States in the Union. Yet the gentleman is so patriotic that he is willing to state that when the poor man is willing to give his blood or his life when the Republic is in peril, when the battle is on, that not until then is he willing that his people shall make any contribution to sustain the Government out of the abundant fortunes they have piled up under the system of the protective tariff.

Mr. HILL. I challenge any man to say that the New England States did not pour out their blood as well as their wealth in the war of the rebellion [Applause on the Republican side.]

Mr. JAMES. They may have been pouring out their blood upon the battlefields. And if they have, I deny that you speak for them when you say they are unwilling to bear their part of the burden of taxation to keep up this Government, which has blessed them so abundantly. [Applause on the Democratic side.] I would state to the gentleman that his party is not for the income tax even as a war measure. The history about this question has been written. No declaration of an man can affect it; and the record lives which tells us that when this Government was in the throes of war with Spain, when from shop and field and factory brave men had left their loved ones at home and were at the front, offering their lives upon their country's altar and in defense of its flag, the Democratic side offered an income-tax law as a part of the war-revenue measure, which placed a tax upon the incomes of the rich, asking that as the poor were standing in front of the cannon on the fields of conflict the fortunes of the corporations and the rich, which in peace were exempt from taxation, might pay something to sustain the Government in the hour of peril. But even in this great crisis you gentlemen upon the Republican side were unwilling to cast your votes in favor of the income tax, even as a war measure, and the whole Republican side voted no. [Applause on the Democratic side.] But, instead, you put the burden of taxation upon the poor, who were at home and at the front. You made them not only fight the battles, but pay the taxes, too. [Applause on the Democratic side.]

Mr. Speaker, the Democratic platform of 1896 used this language in reference to the income tax:

But for the decision by the Supreme Court there would be no deficit in the revenue under the law passed by a Democratic Congress in strict pursuance of the uniform decisions of that court for nearly a hundred years, that court having in that decision sustained constitutional objections to its enactment, which had previously been overruled by the ablest judges who have ever sat upon that bench. We declare that that it is the duty of Congress to *use all the constitutional power which remains after that decision, or which may come from its reversal by the court as it may hereafter be constituted*, so that the burdens of taxation may be equally and impartially laid, to the end that wealth may bear its due proportion of the expense of the Government.

Mr. Speaker, we all remember how fiercely the Democracy was assailed for this declaration. We were charged with assaulting the Supreme Court of the United States. You gentlemen on the Republican side charged that Mr. Bryan and the Democratic party were almost guilty of treason for this declaration. This was an honest effort on the part of the Democratic party to have the Supreme Court rehear this question, that, if possible, immense fortunes, which President Roosevelt called "swollen fortunes," but which might perhaps have been called "stolen fortunes," might bear some part of the burden of taxation in this Republic. This declaration arrayed against the Democratic party all the rich, all of the possessors of these fortunes, who were interested in escaping taxation and transferring its burdens to those least able to bear them. Many of those purses that were tightly drawn against the tax collector of the Government were willingly opened to the Republican campaign collector in order that the party that desired to tax the wealth of the country might be kept out of power. For all these years the Democratic party has been battling to have an income tax held constitutional. The Republican party, in full power in every department of the Government, has strongly and successfully resisted our efforts. But how times do change! And I desire here to read from a speech of President Taft, delivered at Columbus, Ohio, in 1907, while he was Secretary of War. It is as follows:

In times of great national need, however, an income tax would be of great assistance in furnishing means to carry on the Government, and it is not free from doubt how the Supreme Court, with changed membership, would view a new income-tax law under such conditions. The court was

nearly evenly divided in the last case, and during the civil war great sums were collected without judicial interference, and, as it was then supposed, within the federal power.

That was virtually the declaration of the Democratic party in 1896. Mr. Taft was not assailed, however, as attacking the integrity of the court or charged with treason to his country for the utterance of these words. I merely desire to parallel these declarations, the utterance of the Democratic party in the national convention made in 1896, and the utterance of Secretary Taft, as a candidate for the Presidency, asking for the Republican nomination in 1907. The court has changed since this decision on the income tax. Only four members of the nine who were then upon the bench are now members of that honored tribunal. Five new judges have since gone upon this court. Of the four who yet remain, two were in favor of and two opposed to the income tax. When the income-tax case was first heard only eight judges participated in the hearing; four voted to sustain the law and four voted against it. Justice Jackson, the ninth judge, participated in the rehearing of the case. Everyone thought his decision would determine the question either for or against the constitutionality of the income tax. However, in this they were very sadly disappointed, for Justice Jackson voted to sustain the law, but one of the judges who formerly voted to sustain it changed his mind, or at least changed his vote, and voted against the law, making it five to four in the decision holding the income tax unconstitutional.

I now desire to submit for the consideration of this House the utterance of former President Roosevelt in his message to the Congress of the United States on December 4, 1906, when he used this language:

In its incidence, and apart from the main purpose of raising revenue, an income tax stands on an entirely different footing from an inheritance tax; because it involves no question of the perpetuation of fortunes swollen to an unhealthy size. The question is in its essence a question of the proper adjustment of burdens to benefits. As the law now stands, it is undoubtedly difficult to devise a national income tax which shall be constitutional. But whether it is absolutely impossible is another question; and if possible it is most certainly desirable. The first purely income-tax law was passed by the Congress in 1861, but the most important law dealing with the subject was that of 1894. This the court held unconstitutional.

The question is undoubtedly very intricate, delicate, and troublesome. The decision of the court was only reached by one majority. It is the law of the land, and is, of course, accepted as such and loyally obeyed by all good citizens. Nevertheless, the hesitation evidently felt by the court as a whole in coming to a conclusion, when considered together with the previous decisions on the subject, may perhaps indicate the possibility of devising a constitutional income-tax law which shall substantially accomplish the result aimed at. The difficulty of amending the Constitution is so great that only real necessity can justify a resort thereto. Every effort should be made in dealing with this subject, as with the subject of the proper control by the National Government over the use of corporate wealth in interstate business, to devise legislation which without such action shall attain the desired end; but if this fails, there will ultimately be no alternative to a constitutional amendment.

Mr. Speaker, it will be observed here that he suggests that the court be given another opportunity to pass upon the income-tax question. He says:

The decision of the court was only reached by one majority. Nevertheless, the hesitation evidently felt by the court as a whole in coming to a conclusion, when considered together with the previous decisions on the subject, may perhaps indicate the possibility of devising a constitutional income-tax law which shall substantially accomplish the result aimed at.

These statements of Mr. Taft and Mr. Roosevelt show that it took them twelve years to find out the Democratic party was right; for their utterances in support of the position of our party come twelve years after the Democratic party, with marvelous courage and the fidelity and love of country born of patriotism alone, challenged wealth's exemption from taxation and denied that the poor and plain citizens of the republic, and these alone, should bear by themselves the burden of taxation, and advanced the hope that a rehearing of the case, with the changed membership of the court, would return to the unbroken precedents of the Supreme Court of the United States for a hundred years and hold constitutional the income-tax law. [Applause.]

I desire now to quote the language of Justice Harlan in his powerful dissenting opinion upon the Income Tax case. He said:

But the serious aspect of the present decision is that by a new interpretation of the Constitution it so ties the hands of the legislative branch of the Government that without an amendment of that instrument, or unless this court at some future time should return to the old theory of the Constitution. Congress can not subject to taxation --- however great the needs or pressing the necessities of the Government --- either the invested personal property of the country --- bonds, stocks, and investments of all kinds --- or the income arising from the renting of real estate, or from the yield of personal property, except by the grossly unequal and unjust rule of apportionment among the States.

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

Here is the language of this great judge, a member of this court suggesting: "Unless this court at some future time should return to the old theory of the Constitution."

Justice Brown, in his dissenting opinion, uses this language:

It is difficult to overestimate the importance of these cases. I certainly can not overstate the regret I feel at the disposition made of them by the court. It is never a light thing to set aside the deliberate will of the legislature, and in my opinion it should never be done, except upon the clearest proof of its conflict with the fundamental law. Respect for the Constitution will not be inspired by a narrow and technical construction which shall limit or impair the necessary powers of Congress. * * *

By resuscitating an argument that was exploded in the Hylton case and has lain practically dormant for a hundred years, it is made to do duty in nullifying not this law alone, but every similar law that is not based upon an impossible theory of apportionment. * * *

It is certainly a strange commentary upon the Constitution of the United States and upon a democratic government that Congress has no power to lay a tax which is one of the main sources of revenue of nearly every civilized state. It is a confession of feebleness in which I find myself wholly unable to join.

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

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

Mr. Speaker, he declares that the decision of 5 to 4 was only arrived at by resuscitating an argument that was exploded in the Hylton case and had lain practically dormant for a hundred years. What more powerful arraignment could be made of any decision than is here uttered by these two ornaments of the bench against the income-tax decision? Yet I merely call attention to these facts to show that the Democratic party throughout all these years has been making this fight for the righteous taxation of wealth; that our language was mild as compared with theirs; that our arraignment was exceedingly tame when placed alongside of theirs. The candidate of the Democratic party, William J. Bryan, standing in Madison Square Garden in 1896, used this language:

The Chicago platform has been condemned by some because it dissents from an opinion rendered by the Supreme Court declaring the income tax law unconstitutional. Our critics even go so far as to apply the name "anarchist" to those who stand upon that plank of the platform. It must be remembered that we expressly recognize the binding force of that decision so long as it stands as a part of the law of the land. There is in the platform no suggestion of an attempt to dispute the authority of the Supreme Court. The party is simply pledged to use "all the constitutional power which remains after that decision, or which may come from its reversal by the court as it may hereafter be constituted." Is there disloyalty in that pledge? For a hundred years the Supreme Court of the United States has sustained the principle which underlies the income tax. Some twenty years ago this

same court sustained without a dissenting voice an income-tax law almost identical with the one recently overturned. Has not a future court as much right to return to the judicial precedents of a century as the present court had to depart from them? When courts allow rehearings they I admit that error is possible; the late decision against the income tax was rendered by a majority of one after a rehearing.

I desire it distinctly understood that I shall offer no apology for the income-tax plank of the Chicago platform. The last income-tax law sought to apportion the burdens of government more equitably among those who enjoy the protection of the Government. At present the expenses of the Federal Government, collected through internal-revenue taxes and import duties, are especially burdensome upon the poorer classes of society. A law which collects from some citizens more than their share of the taxes and collects from other citizens less than their share is simply an indirect means of transferring one man's property to another man's pocket, and, while the process may be quite satisfactory to the men who escape just taxation, it can never be satisfactory to those who are overburdened. The last income-tax law, with its exemption provisions, when considered in connection with other methods of taxation in force, was not unjust to the possessors of large incomes, because they were not compelled to pay a total federal tax greater than their share. The income tax is not new, nor is it based upon hostility to the rich. The system is employed in several of the most important nations of Europe, and every income-tax law now upon the statute books in any land, so far as I have been able to ascertain, contains an exemption clause. While the collection of an income tax in other countries does not make it necessary for this Nation to adopt the system, yet it ought to moderate the language of those who denounce the income tax as an assault upon the well to do.

Not only shall I refuse to apologize for the advocacy of an income tax law by the national convention, but I shall also refuse to apologize for the exercise by it of the right to dissent from a decision of the Supreme Court. In a government like ours, every public official is a public servant, whether he holds office by election or by appointment, whether he serves for a term of years or during good behavior, and the people have a right to criticize his official acts. "Confidence is everywhere the parent of despotism; free government exists in jealousy and not in confidence." These are the words of Thomas Jefferson, and I submit that they present a truer conception of popular government than that entertained by those who would prohibit an unfavorable comment upon a court decision. Truth will vindicate itself; only error fears speech. No public official who conscientiously discharges his duty as he sees it will desire to deny to those whom he serves the right to discuss his official conduct.

Here we behold, Mr. Speaker, this patriot throwing down the gage of battle in the very citadel of wealth. He was maligned and slandered then, but what a glorious victory he is having upon this question! What a marvelous vindication he is receiving now! The whole Nation upon tiptoe now approving his stand on the question of an income tax. And, sir, when those who have maligned him have been forgotten, this man who bore three times with honor and with courage the standard loved by millions of his countrymen, battling for equality of taxation, equality of opportunity, striving for the righteousness a republic owes to its people, obedience to law by the great and small, that the tax gatherer should visit alike the cabin and the palace, the hut and the mansion, I say, sir, that when the flunkeys and the adulators shall no longer find favor in their fawning nor pay for their abuse, the principles advocated by William J. Bryan, the lover of men and of the rights of men, will live in the Constitution and shine in the statute laws of the land.

Mr. Speaker, our Republican opponents took advantage of this position of the Democratic party and called to their aid every corporation and millionaire in the Republic, seeking to defeat the party which would tax all men fairly.

Many bills have been introduced by Democrats in Congress providing for an income-tax law during the last ten years, only to be smothered and defeated by the Republican machine. Mr. Taft, in accepting the Republican nomination in 1908, used this language:

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

The Republican party in the present extremity is forced to take both these principles in dealing with the income tax from the Democratic national platform. We were told by Mr. Taft that no constitutional amendment was needed; that the changed membership of the court would hold an income tax constitutional. The gentleman from Minnesota [Mr. STEVENS], one of the ablest Members upon the Republican side, upon the floor of this House, on March 25, 1909, used this language:

For that reason it seems to me to be wise to draft a bill with separate clauses, putting a tax upon incomes of real estate in one clause and declaring that the invalidity of that clause should not affect the balance of the provisions of the act. The same could be done as to personality, and so on, as to the various classes and subjects of taxation. By this method any tax of any substance might be retained, even if some be found to be invalid upon the final consideration. Upon arriving at that conclusion I laid the matter before President Roosevelt. He was delighted with the suggestion, and inquired in what way he could be of assistance. He referred me to the Secretary of the Treasury, who also gladly promised cooperation. The Secretary directed his subordinate officers to prepare a bill along these lines, but for some reason or other those officers neglected to do so and did not report their negligence until the very last week of last session. We were all rushed in the last days of the session, so I concluded to wait until the new administration came in.

I laid this matter before President Taft as I am explaining it to the House, and he also was pleased at the suggestion and promised cooperation to see that a bill was prepared as a basis for my own suggestions. The administration assumed no responsibility and the administration had no views in connection with the matter. All it did was to tender the services of the executive departments to do the work for this measure, exactly as it does for nearly every measure of importance presented to the House. And that is what I desire to have made clear, that whatever I do is on my own responsibility. I am only seeking advice and assistance from the various bureaus in the department of administration and from whatever source I can get it.

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Mr. Speaker, the newspapers of the country had announced that the income-tax bill of the administration would be introduced by Mr. STEVENS of Minnesota. It will be observed that he says in this speech that he laid the matter before President Roosevelt and he was delighted with the suggestion, and inquired in what way he could be of assistance. He referred next to the Secretary of the Treasury, who also promised cooperation. The purpose of this was to resubmit the income-tax question to the Supreme Court of the United States, as declared by the Democratic national convention in 1896. The gentleman from Minnesota [Mr. STEVENS] proceeds and says he laid this matter before President Taft, as he was explaining it to the House, and he also was pleased at the suggestion and promised cooperation to see that a bill was prepared as a basis for his suggestions. Nothing was said then about an amendment to the Constitution upon the income-tax question. Mr. Speaker, this worming in and worming out of the Republican party and its leaders on the income-tax question forces me almost to question their sincerity in being its friend. I shall vote, Mr. Speaker, to submit this constitutional amendment to the States; but when I do so, I do not concede, nor does the Democratic party concede, that Congress has not now the power to impose such a tax. Our national platform of 1908 says:

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

There is no contradiction between this position of submitting an amendment to the Constitution to the States and passing an income-tax bill at this session of Congress providing for an income tax, for the reason that there were two or three questions before the Supreme Court upon the question of taxing incomes from various sources, which the court unanimously agreed were not subject to taxation. A constitutional amendment will remedy this situation and give to Congress the power "specifically" to lay such a tax. We could then proceed to resubmit to the "changed membership of this court" these questions where the court stood 5 to 4 by reason of the changed opinion of one member of the Supreme Court, and I believe, as I believe I am in the House of Representatives at this moment, that the Supreme Court will return to the long line of decisions holding the income tax to be constitutional. What shall our Republican friends

do about this question? Is the bill promised by the Republican leader [Mr. STEVENS of Minnesota] to fall by the wayside? It delighted Mr. Roosevelt, it pleased Mr. Taft, it met the approval of the Secretary of the Treasury. I believe I speak for the Democratic side when I say we stand ready now, as we have for twelve long years, to pass such a bill. Will you give us the opportunity; or are you attempting to dodge behind 12 States in the Union and defeat the income-tax amendment, and in this way prevent the wealth of the country paying any part of the taxing burden? I am delighted to offer you the platform of 1896 as your remedy for such a bill, as with a delight which equals, if it does not surpass it, I offer the Democratic platform of 1908 providing for the constitutional amendment.

This battle, Mr. Speaker, for the income tax has just begun. We intend to carry it to the last ditch. I sincerely trust that in every State in the Union when a man becomes a candidate for the legislature or for the Senate, whether he be Republican or Democrat, the people will force him to say how he stands upon the question of the income tax. Make him speak out either for or against the people. Wealth is always organized; corporations stand fighting it now. The people must be aroused if they will succeed. Mr. Speaker, in my judgment, the most unfortunate decision ever written was the one holding the income-tax law unconstitutional. For a century this law had been held constitutional by an unbroken chain of decisions reaching from the first link forged by the Revolutionary judges down for more than a hundred years; a chain of decisions so strong that Abraham Lincoln girded it about the Republic in its darkest hour in the war between the States. [Applause on the Democratic side.] It stood all these tests; it grew strong with age. Its repeated upholding by the court through this long line of decisions, its long acquiescence in by the people, its absolute justice, its immeasurable equity, stamp it a law better than stare decisis, for it is a law as just as the Republic ever made, so fair and so righteous that it might be called the "golden rule of taxation." [Applause on the Democratic side.] To my mind the income tax is the most equitable of all systems of taxation. It is the ideal way to support the Government. Let those who prosper little pay little, for they are least indebted to the Government; let those who prosper more pay more; let those who prosper most pay most; let those who prosper greatly pay greatly, for certainly they have been most blessed and are therefore most indebted to the Government. What man is so ungrateful to his country that he is unwilling to pay a small tax upon his income above \$5,000 to help sustain and perpetuate the Government under which he enjoys such success? Many bills have made such provision, but to meet defeat at the hands of the Republican party, which has always opposed taxing wealth in any degree.

Who is prepared to defend as just a system of taxation that requires a hod carrier, who for eight long hours each day wends his way to the dizzy heights of a lofty building with his load of mortar or brick, to pay as much to support this great Republic as John D. Rockefeller, whose fortune is so great that it staggers the imagination to contemplate it and whose property is in every city and State in the Republic and upon every sea protected by our flag. [Applause on the Democratic side.] Who believes that it is just to say that 23 farmers in my district, who by a life of self-denial and unceasing toil have been enabled only to accumulate 200 acres of land and a modest home, who in sunshine and storm labor on, who by such a life only own in this world's goods \$5,000 each --- is it just, I inquire, for these men to pay as much taxes to keep up this Government as the 23 men who compose the directorate of the New York City Bank, which has a controlling financial power of \$11,000,000,000, or one-tenth of the wealth of the United States? Should these men, I submit, who control as much wealth as all the people in the States south of Mason and Dixon's line, pay no more taxes to support this Republic than the 23 farmers in my district whose total wealth only amounts to \$115,000? Yet under the system of taxation now in operation in this Government, under the Republican party, the 23 farmers pay the most tax to keep up the Federal Government. Is it a matter of great speculation, then, that wealth is so unequally distributed? I am quite free to confess, Mr. Speaker, that it is impossible for me to find one single just reason for opposing the income tax. How men can defend a system of taxation in a republic which requires of the poor all of its taxes and exempts the rich absolutely I am totally unable to see. In the everyday walks of life we expect more for church, for charity, for the uplifting of society, and education from those who are most prosperous, most wealthy, most able to give. Yet the system of taxation advocated by the Republican party drives the tax gatherer to the tenement house and makes him skip the mansion, drives him to the poorhouse and lets him pass the palace. [Applause on the Democratic side.]

No man can be found, Mr. Speaker, with rarest exception, who will deny the equity of an income tax. They offer no argument in opposition to it. Their only refuge that I have been able to observe is that it is unconstitutional; and when they say this they are all afraid to give the Supreme Court another chance to

pass upon it [applause] to see whether the court was right for a hundred years and wrong for fifteen, or wrong for a hundred years and right for fifteen.

I have heard it urged by some gentlemen upon the Republican side that the passage of an income-tax law would undermine and at last destroy the protective-tariff system. This, Mr. Speaker, is equivalent to saying that in order to give a few monopolists and manufacturers the right to reach into the pockets of all the people, you have kept the tax gatherer from reaching into the pockets of the few, the fortunate few, the entrenched few, the successful few; but you have driven the tax gatherer to the same pockets which monopolies pillaged under the protective tariff for taxes to sustain the Government. The protective-tariff system is vicious enough in itself without adding to it the iniquity of saying that in order to perpetuate it you must place the taxing burden of the Government upon the masses of the people, who must also bear the heavy burden the protective-tariff system inflicts upon them.

Mr. Speaker, no tax was ever more unjust, in my opinion, than a tax upon consumption, for all must eat to live, all must wear clothes, and when you place a tax upon what it takes to sustain one, you announce the doctrine that all men share alike in the blessings of government, that all men prosper equally. But we have only to look about us to see how false this doctrine of taxation is. A tax upon what some people eat and what they wear would deny them the necessities of life, while others, rolling in opulence and accumulating their wealth into the millions, would not feel such a tax. Then, besides this, Mr. Speaker, the protective-tariff system has become so vicious in this Republic that the Republican party's candidate, Mr. Taft, promised the country a revision, and a revision downward. But, like that party always does, it procrastinated this relief. It said it would come to the people after the election. The Democratic party said the reason it wanted first to be entrenched in power and put off this promised relief until after the election was because the Republican party intended to deceive the people. And behold now, Mr. Speaker, the truth of this prophecy. What a shameless violation of the promised revision downward do we now behold! The betrayal of the people by the Republican party is written in this House and at the other end of the Capitol, for the revision has been upward and not downward. The reason the Republican party would not reform the tariff before the election was they knew if they did reform it in the interests of the people, the corruption fund, which they were so used to receiving, would be denied them by the favored few with whom they were in partnership. They knew if the legislation was in the interest of the monopolies, as it now is, the people would rebuke them, so they put it off until after the election.

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Mr. Speaker, this battle for an income tax will go on. This is the people's Government and the right will prevail. During all these years the mighty rich ---- an army of millionaires ---- have been exempted from taxation, but the people are now aroused. There are two lines of battle drawn for this great contest. Under which flag will you stand --- the flag of Democracy or the flag of plutocracy?

We shall win, for ---

Still, Truth proclaims this motto
In letters of living light:
No question is ever settled
Until it is settled right.

[Applause on the Democratic side.]

And I would scorn, Mr. Speaker, a government whose taxing power provides that Lazarus must divide his crumbs with the tax gatherer, but that Dives shall not give of his riches. [Great applause on the Democratic side.]

Mr. LONGWORTH. Mr. Speaker, I have been requested by the gentleman from New York [Mr. PAYNE] to control the time on this side during his absence from the Chamber.

The SPEAKER. The Chair desires to state that the gentleman from New York was entitled to one hour, and the gentleman from Missouri who was recognized is entitled to one hour.

Mr. CLARK of Missouri. Mr. Speaker, my understanding was that the gentleman from New York [Mr. PAYNE] controlled the time on that side, and that I controlled all the time on this side.

The SPEAKER. The Chair has no objection to the gentleman from New York and the gentleman from Missouri controlling the time.

Mr. CLARK of Missouri. Then, I ask unanimous consent that the time be controlled by the gentleman from New York on that side and that I control the time on this side.

The SPEAKER. The gentleman from Missouri asks unanimous consent that the time which was allowed by unanimous consent for debate shall be controlled, one hour and three quarters by the gentleman from New York and two hours by the gentleman from Missouri. Is there objection?

There was no objection.

Mr. LONGWORTH. I will ask the gentleman from Missouri to use some more of his time, as there is no gentleman at present who wishes to speak on this side.

Mr. CLARK of Missouri. I will yield five minutes to the gentleman from New York [Mr. HARRISON].

Mr. HARRISON. Mr. Speaker, I am in favor of this resolution, and shall vote for it. At the same time I have grave doubts of the advisability of attempting to put through any special form of taxation at the end of this long tariff agitation. However, this income-tax amendment is a confession by the Republican party that they are unable to raise sufficient revenue by means of a tariff and that they must resort to another form of taxation. For seven long years the Nation has been dancing, and now it is called upon to pay the piper. Our spree is over and we are now realizing how sad is the way of the man who has lived beyond his income. It must be admitted, however, that in such an emergency an income tax is the soundest of Democratic doctrine, and you Republicans, as was well stated by the gentleman from Kentucky [Mr. JAMES], are turning to us in this crisis for remedial legislation.

There is a feature of this resolution, moreover, which especially commends it to me. If the resolution prevails, it should be incumbent on the conferees upon the tariff to drop immediately from consideration the proposed corporation tax put into the bill by the Senate. This resolution now before the House provides for the taxing of incomes from whatever source derived. That means taxes upon incomes of corporations as well as individuals. In my opinion the corporation tax as it passed the Senate is unconstitutional; but if this resolution prevails and the States give us the constitutional right to pass a law taxing the incomes of corporations as well as individuals, such doubts will be at once removed. Moreover, as it now stands, alone, without an individual income tax, the corporation tax is the most grossly unfair impost ever levied by motion of either Chamber of Congress. It is unfair because it will allow one man with a \$100,000 income to go free, while another man who may get \$10,000 in income must pay the tax because his business is incorporated. It allows the man conducting a grocery business upon one corner of the street to go scot-free, while another man that carries on the same business on the next corner of the same street is obliged to pay a tax because he has incorporated his business. It thus violates the fundamental principle of taxation, namely, that its burdens should be equally distributed.

But, aside from all that, it tends to what is even more dangerous --- an attempt to change our form of government through the taxing power of the Congress.

If such a change toward government control of business is to be adopted, it should be done as is proposed by this resolution, namely, by a constitutional amendment. We should resist to the utmost any attempt of the Congress to change, through the taxing power, the form of government under which we have conducted our affairs for so many generations.

Mr. Speaker, as I have said, I believe that upon the adoption of this resolution, this unfair, this inequitable corporation tax should at once be dropped by the conferees upon the tariff. It was put forward not really as a revenue raiser, but chiefly as a political expedient and primarily to give the Federal Government these gross inquisitorial powers. That is the feature of the corporation tax most commended by President Taft, and that is the feature of the tax to which I am most opposed. Why, gentlemen, suppose that at some time in the future while such a corporation tax was in force some Chief Executive were to send a member of his Cabinet to Wall Street to collect campaign contributions for his reelection from the corporations in my city, what a mighty club he would have to hold over their heads.

Mr. Speaker, I hope the corporation tax will go out of the tariff conference, and I hope that the whole question will go over as it should go, to be considered by the States. A consideration by the States separately of the question of an income tax, both individual and corporate, will provide what was demanded by the last Democratic platform, namely, a constitutional amendment permitting a tax upon all kinds of income. [Applause on the Democratic side.]

Mr. CLARK of Missouri. Mr. Speaker; how much time did the gentleman from New York use?

The SPEAKER. He used ten minutes.

Mr. CLARK of Missouri. He only had five.

The SPEAKER. Five, or whatever it was. The messenger who keeps the time stated that the gentleman's time had expired, and the Chair was under the impression that he had ten minutes.

Mr. LONGWORTH. Mr. Speaker, I yield ten minutes to the gentleman from Ohio [Mr. KEIFER].

Mr. KEIFER. Mr. Speaker, most everything comes within the scope of this debate, and especially are we allowed to hear what we have heard for many years, that exaltation that comes from the Democratic party when a thing is about to be done that some time in the history of the country some of the Democratic party has favored. It is said that this amendment proposed is to be useful in time of war. If there ever is any necessity for an income tax, of course it is when the Nation is at war. I want to say, Mr. Speaker, with the utmost kindness, that so far as history shows the Democratic party has not been in favor of an income tax in time of a great war, and it might well be that it should stand converted now. In the civil war, in the most trying period of it to the Union, when the question of an income tax was voted upon on this floor, every Democrat present and voting voted against it and denounced it as unconstitutional. [Applause on the Republican side.] Not a single Republican, as the RECORD shows, voted against it.

In the Senate of the United States at that time every Democrat voted against an income tax save Mr. McDougal, of California --- one only in both Houses. Now I congratulate the Democratic party after these many years in a conversion to the income tax so that it may be levied in time of war. I am not very much enamored of this proposition. I hope a just, equitable tariff bill will be passed to so levy import duties as to raise all the revenues that we need; but if it is necessary, I want the Republican party to be in a position that they can rely upon the Democratic party in voting for an income tax in times of war and not have the cry then made by Democrats that it was unconstitutional. I do not hear anybody disputing this last statement. [Applause and laughter on the Republican side.]

Mr. SULZER. Ancient history.

Mr. KEIFER. That is admitted; but it is truthful history. Now, Mr. Speaker, there is something said about the necessity of an income tax to reach the idle rich; but if we had only the idle rich, I think I would rather like the programme; but there are in this country thousands and tens of thousands of enterprising spirits who have gone forth with energy, industry, and by displaying economy have acquired fortunes, and they are the persons who are to be reached by an income tax; and I am willing they shall be when the trying times come.

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While it may be true that those who by their ability and providence amass an estate are secure, an income must bear a proportionately great share of the government taxes; it should not be imposed upon them merely as a punishment.

My friend from Missouri [Mr. CLARK] says that \$5,000 is not enough exemption, and that he would have more. I do not agree with him. There are a hundred men with their families in this country who live on \$500 a year to where there is one who lives on \$5,000. But that is not the test. If we need an income tax, we can have it if this amendment is ratified by the proper number of States in this Union.

Mr. GARRETT. Getting away from the economic phases of it, I want to ask the gentleman a question or two about this matter from a legal standpoint, independent of politics or the economic phases of it.

Mr. KEIFER. Go ahead.

Mr. GARRETT. This amendment puts no time limit on the ratification, does it?

Mr. KEIFER. No.

Mr. GARRETT. Now, under the practice, as a practical proposition, when can this matter be finally determined? When will the Secretary of State issue his declaration?

Mr. KEIFER. Never, until three-fourths, I believe, of the States have ratified it.

Mr. GARRETT. Now, is it open forever for them to ratify?

Mr. KEIFER. So I understand.

Mr. GARRETT. And can a State ratify and then take it back ---

Mr. KEIFER. Mr. Speaker, let me answer that question.

Mr. GARRETT. Now, that is an interesting question.

Mr. KEIFER. That question has arisen. There were two or more States in the Union that ratified the fourteenth amendment to the Constitution, and I am sorry to say that one of those States was the State of Ohio, and after the ratification the state legislatures passed a resolution to rescind that ratification. My recollection is that the rescinding resolutions were disregarded by the Secretary of State in issuing his proclamation declaring that the fourteenth amendment was adopted.

Now, I may be mistaken, but I think the Secretary of State included Ohio as one of the States that had ratified the fourteenth amendment. That amendment was proclaimed ratified by the Secretary of State on

July 28, 1868, and in his proclamation he recited all the facts relating to the action taken by each State on the subject of ratifying or rescinding.

Mr. GARRETT. It is my recollection, if the gentleman will permit me ---

Mr. KEIFER. Certainly, if I have the time.

Mr. GARRETT. It is my recollection that the late Senator Sherman, of Ohio, introduced a resolution in the Senate requiring, or instructing, the Secretary of State to issue the proclamation, and requiring in that resolution that the States could not rescind an action after having once accepted.

Mr. KEIFER. I think that resolution was not adopted by the Congress.

Mr. GARRETT. I do not think so, either. Is it not true that there were some States which voted against the fourteenth amendment that subsequently changed their action?

Mr. KEIFER. I do not remember that definitely, but I think there were some States that took such action.

Mr. GARRETT. And the Secretary of State held that, while a State could not rescind its action when it adopted it, it could rescind its action when it failed to adopt it.

Mr. KEIFER. I am only giving my recollection. I am not absolutely sure that there is any such case as the last one cited. I remember the other, for I was a member of the senate of the State of Ohio in 1868, when the rescinding resolution was passed, and I resisted it to the best of my ability.

Mr. GARRETT. The gentleman will find that there are some States ---

Mr. KEIFER. I am not disputing it, because I do not know.

Mr. CLAYTON. I would like to ask the gentleman a question.

The SPEAKER. The gentleman's time has expired.

Mr. LONGWORTH. I yield five minutes more to the gentleman from Ohio [Mr. KEIFER].

Mr. CLAYTON. I would like to ask the gentleman a question. I did not have the pleasure of hearing all his remarks, but I suppose that he intends to vote for this resolution?

Mr. KEIFER. Oh, yes.

Mr. CLAYTON. And he thinks that the State of Ohio will also vote for it?

Mr. KEIFER. I suppose so; yes.

Mr. CLAYTON. And the gentleman thinks it ought to?

Mr. KEIFER. Yes.

Mr. CLAYTON. Then I understand the gentleman to criticize the remarks of the gentleman from Missouri [Mr. CLARK], that he would exempt incomes of \$5,000 or less?

Mr. KEIFER. No; I do not criticize it. I was only speaking about the relative number of people that live on \$500 a year and \$5,000 a year.

Mr. CLAYTON. I would exempt probably all that did not exceed \$10,000 myself if I had my way, and certainly exempt the poor man and certainly catch all these idle rich, these fellows that do not pay anything.

Mr. KEIFER. Now, I did not expect the gentleman to make a speech in my time.

Mr. CLAYTON. Does not the gentleman think that the correct way to levy an income tax is to make it a tax on wealth and not upon want?

Mr. KEIFER. It was always so --- you can not get much out of "want."

Mr. LONGWORTH. Will the gentleman yield to me?

Mr. KEIFER. I yield to anybody.

Mr. LONGWORTH. Would the gentleman exempt \$7,500? [Laughter.]

Mr. CLAYTON. I think I would be perfectly frank with the gentleman, and say that I would not exempt the multimillionaires, and I would not continue this Republican policy of grinding the faces of the poor consumers in this country under your tariff taxes. I would put the tax upon wealth and not upon necessity. [Applause on the Democratic side.]

Mr. KEIFER. I did not understand that I yielded time to the gentleman to make that speech again.

Mr. GARRETT. Will the gentleman allow me?

Mr. KEIFER. If it is just a question.

Mr. GARRETT. I do not want to pursue the economic phase of this question. I think the legal phase should be considered in this matter. I want to submit to the gentleman, what, in his opinion, would be the effect of this as applied to the time of ratification?

Mr. KEIFER. I think the time of ratification is not limited, either by the resolution or by the Constitution of the United States. That is all I can say on that subject.

Now, Mr. Speaker, I have said all I ought to have said, and there may be some things I should not have said. But I am inclined to think that this is a wise resolution to adopt, in order that we may not have this question coming up from time to time in the courts, before the Supreme Court of the United States, to determine whether or not an income tax is constitutional.

I have had doubts myself about the matter. And yet I have read the decisions, the opinions of the judges supporting the constitutionality of the income tax and those denying it, and when I have gotten through them I have not been entirely satisfied one way or the other. I believe in having well-defined constitutional power for the Federal Government to act upon, and I am enough of a states rights man to be in favor of the Federal Government exercising only those constitutional powers clearly given to the Federal Government. Those that are exclusively State I deny the right of the Federal Government to invade at all under any circumstance. If there be constitutional powers given to the State and likewise to the Federal Government, the State may exercise them unless the Federal Government intervenes, and when the Federal Government does intervene, in such case, then the State will be ousted; but those powers given to the States exclusively the Federal Government should keep hands off.

Mr. CLARK of Missouri. I yield five minutes to the gentleman from Tennessee [Mr. HULL].

Mr. HULL of Tennessee. Mr. Speaker, when Senator Garrett Davis, of Kentucky, in 1864 offered a resolution in the Senate of the United States proposing an amendment to the Constitution for the purpose of forming two States out of New England, some comment and speculation occurred; but during the past few weeks the unexpected spectacle of certain so-called "old line, conservative" Republican leaders in Congress suddenly reversing their attitude of a lifetime and seemingly espousing, though with ill-concealed reluctance, the proposed income-tax amendment to the Constitution has been the occasion of universal surprise and wonder. However, many strange things occur in the course of a Republican national administration. No person at all familiar with the present trend of national legislation will seriously insist that these same Republican leaders are overanxious to see the country adopt an income tax or that they would earnestly support a measure designed to speed the day of its coming. To what, then, can this course on their part be ascribed? What powerful influence, what new light, what deep-seated motive suddenly moves these political veterans to "about face" and to pretend to warmly embrace this doctrine which they have heretofore uniformly denounced and condemned in unmeasured terms? When I thus allude to these Republicans I am not to be understood as including all the Republicans in Congress, but I do refer to most of the Republican leaders, men whose will is law to their obedient followers.

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CURIOUS CONDITIONS.

By reason of this strange course on their part the agitation in behalf of an income tax has assumed such a phase as to give the real friends of this doctrine just cause for apprehension, if not alarm. In determining the wisdom or unwisdom of the course now being pursued by Congress to recover this lost power of taxation, it is due the American people that they should know who are the real friends of the income tax and who are only its pretended friends.

Mr. Speaker, I desire to call the attention of this House and, so far as I can, of the country to the circumstances under which it is proposed by its Republican sponsors to pass this resolution to amend the Constitution. The American people need not delude themselves by the belief that most or even many of those Members of Congress who have heretofore opposed the imposition of this tax are now in favor of the same by reason of their support of the resolution submitting the proposed amendment to the States for their ratification. On the contrary, the present attitude of many of them is one of known hostility, and the people are woefully mistaken if they suppose that this amendment will not be seriously antagonized, not only by many powerful influences in the different States, but even by many of the Members of Congress who will silently vote to submit this amendment to the various States for their action.

REVIEW OF INCOME TAX IN CONGRESS.

I trust I may be pardoned while I review in few words the recent steps taken in Congress with reference to this question. Early in the Sixtieth Congress it was my privilege to introduce in the House an income-tax bill, embracing the chief features of the income-tax law of 1894, omitting the provisions subsequently declared invalid by a unanimous Supreme Court. On the first day of the present session of Congress I reintroduced this measure, and a few days later I offered some extended remarks in support of it or some

similar measure, urging its immediate consideration by the House. In referring to the decision of the Supreme Court of the United States, declaring the old income-tax law invalid, I used the following language:

I agree that Members of Congress are under oath to support the Constitution, and that it is the duty of the Supreme Court, under proper circumstances, to construe and expound that instrument; but I submit that where, in the judgment of Members of Congress, a palpably erroneous decision has been rendered by the Supreme Court, stripping the coordinate legislative branch of the Government of one of its strong arms of power and duty, a decision overturning a line of decisions extending over a hundred years of the Nation's history, a decision violating the doctrine laid down by all text-book writers and commentators on the Constitution, a decision running counter to the fixed policies of every department of the Government as uniformly pursued for more than a century --- I say, under these circumstances, every Member of Congress owes to himself and to the country the duty of exhausting every reasonable and legitimate means to secure a review by the court of the questions erroneously decided. * * * It is entirely proper that Congress should pass another income-tax act again raising the important questions deemed to have been erroneously decided by the Supreme Court heretofore, and by this course secure a rehearing upon these controverted questions. * * * But two methods are open by which to secure to Congress its taxing power lost under this decision, namely, an amendment to the Constitution, or a reversal by the Supreme Court of its former decision.

Speaking further, I urged that Congress first pursue the latter alternative. However, the House of Representatives passed the Payne tariff bill without including any feature of an income tax, save a provision imposing an inheritance tax. During the consideration of the Payne bill in the House I watched every opportunity, as did other Members of the minority, to offer an income-tax amendment and to secure an expression of the House thereon, but under the peculiar and ironclad rules of the House not the shadow of a chance was offered. Just prior to its passage the Democrats in the House moved to recommit the Payne bill with instructions, among other things, to embody in it a comprehensive income-tax provision, but the Republican majority voted down this proposition. Later, when the bill went to the Senate, the Senate Democratic caucus unanimously agreed to urge the insertion of a similar income-tax amendment in the tariff bill as made up in the Senate.

The Senator from Texas [Mr. BAILEY] had in the meantime proposed an amendment of this character in the Senate; likewise, the Senator from Iowa [Mr. CUMMINS] had proposed an amendment along similar, though not identical, lines. Very soon public sentiment in support of this movement began to rapidly crystallize and to plainly manifest itself in every part of the country. Members of Congress hitherto lukewarm or indifferent, or opposed to this proposition, immediately opened their eyes and took notice, and notwithstanding the sleepless and strenuous efforts of its opponents, as the day for a test vote upon it approached in the Senate the surprising fact dawned upon them that a majority of the Senate was inclined, aye, was ready, to vote the Bailey-Cummins income-tax amendment into the tariff bill, and that such action was a foregone conclusion, unless by some parliamentary device or legislative subterfuge the plans of those in charge of this amendment could be thwarted and a division created among its supporters. What occurred? Remarkable to contemplate! It suddenly became noised around that revenue, or some other kind of exigencies, necessitated the introduction and passage through another body of the twin or companion measures since better known as the corporation-tax amendment and an amendment to the Constitution empowering Congress to levy a tax on incomes.

IS THIS LEGISLATIVE HONESTY?

The real purpose of those in charge of these two companion measures was not concealed and may be best indicated by the following statement made in another part of the Capitol by the mightiest Republican of them all:

I shall vote for a corporation tax as a means to defeat the income tax. * * * I am willing to accept a proposition of this kind for the purpose of avoiding what, to my mind, is a great evil and the imposition of a tax in time of peace when there is no emergency, a tax which is sure in the end to destroy the protective system. * * * It [the corporation tax] can be reduced to a nominal amount, and the features of the corporation tax that commend it to many Senators and a great many other people is that the corporation tax, if it is adopted, will certainly be very *largely reduced, if not repealed, at the end of two years.*

The purpose of those who are sponsoring and chaperoning the corporation-tax amendment and the income-tax amendment to the Constitution is thus stated with brutal frankness. When hemmed in and confronted by the dreaded alternative of being forced to yield to the immediate enactment of an income-tax law, or by contriving and offering an exceedingly mild substitute, and pretending to lend it support, thereby crippling and defeating the income-tax amendment, the wily leaders hesitated not, but pursued the latter alternative. The plan has thus far worked admirably; the income-tax forces in this particular body were thereby dissipated, and, so far as this session of Congress is concerned, the income tax now sleeps in its grave.

Mr. Speaker, there is, and has been, no division of opinion among the friends and supporters of this method of taxation as to the wisest course to pursue to secure its adoption. In common with the sentiment of the American people and the great weight of opinion of the legal profession throughout the country, its friends in Congress unalterably believe that the decision of the Supreme Court rendered in the Pollock case in 1895, pronouncing the income-tax law unconstitutional for lack of apportionment, is clearly unsound, and in justice to the country and to the Supreme Court itself ought not to stand as the law of the land. Meaning no disrespect to the high tribunal rendering it, I avow that this decision has not met the approval of, nor been acquiesced in as sound law by, any considerable number of either the American bar or the American people. This decision presents one of the very rare instances in the Nation's judicial history in which it is well-nigh universally agreed that the greatest judicial tribunal on earth erred. Fortunately our judicial annals disclose a few precedents wherein this high and distinguished tribunal, at no time claiming to be infallible, has confessedly fallen into error, but later reconsidered its former action and reversed its erroneous decisions. This commendable practice of cheerfully correcting their own errors, though few they be, is likewise followed by all courts of last resort in every civilized nation of the world. And why not?

While I shall cheerfully vote to submit to the States the proposed income-tax amendment to the Constitution, as I would vote to take any step in the direction of securing an income tax, keenly aware, as I am, that certain Republican leaders have brought it before Congress at this time as the best available means of delaying and if possible finally defeating the enactment of any income-tax law, yet I am unalterably of opinion that the abandonment by Congress of its present opportunity to enact a new income-tax law and thereby give the Supreme Court a chance, and the only chance it will probably ever have, to reconsider, review, and, if deemed proper, to reverse its former decision in so far as it affected the power of Congress to impose a comprehensive income tax, is neither the best, the quickest, nor the wisest course to pursue. Congress having heretofore pursued a policy of nonaction with respect to this decision of the court, it can be truthfully said that Congress has in no sense acquiesced in or ratified that decision. But if Congress now fails and refuses to take such steps as would result in securing a reconsideration by the court of its former decision, thereby giving the court an opportunity to reverse the same if now deemed unsound, but instead pursues the course of proposing the pending constitutional amendment to the States, its action in so doing will be construed by many as an acquiescence in, an acceptance, and a ratification of the court's former decision, which every good lawyer in and out of Congress agrees is erroneous and unsound.

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NO INDORSEMENT OF COURT DECISION.

Mr. Speaker, I shall vote for the proposed amendment, but with the distinct understanding that I in no wise abandon my conviction that the decision in the Pollock case was wrong and that I do not waive or prejudice my right under the Constitution as a Member of this House to hereafter vote to enact such an income-tax law as will result in a reconsideration by the Supreme Court of each of these controverted questions. While I thus speak only for myself, I believe this view but reflects the judgment of virtually every sincere supporter of the doctrine of an income tax in Congress.

POWERS AND DUTIES OF MEMBERS OF COORDINATE BRANCHES.

Mr. Speaker, this brings me to a brief consideration of the powers and duties of members of coordinate branches of the Government in connection with the discharge of their respective functions. Every member of each coordinate department of the Government acts under the obligation of an oath of fidelity to the Constitution. It delegated to Congress certain specified powers. It is true that if in the execution of its powers Congress should adopt measures which are prohibited by the Constitution, it is within the prov-

ince of the Supreme Court to say that such an act was not the law of the land. While it is the unquestioned duty of the citizen to yield obedience to the operation of a Supreme Court decision, yet the broad and well-defined distinction between this duty of the citizen and the right and duty of a member of a coordinate branch of the Government when acting in a *legislative capacity* has been conceded and recognized by the ablest legal minds from the beginning of the Government. This doctrine is well expressed by a noted author in his Constitutional History of the United States, George Ticknor Curtis, volume 2, page 69, as follows:

It may well be that every official who takes an oath to support the Constitution is bound to interpret it as he understands it; and especially is this true of both branches of the legislative power, one of which is the two Houses of Congress, and the other of which is the President. To both of them a decision of the Supreme Court of the United States on a constitutional question commends itself by the weight of its reasoning; but when the same question arises in the course of legislation, those who exercise the functions of legislation must determine for themselves whether they will or will not follow out the views maintained by the court. What the court really decides is that, in a litigated case, the parties whose rights against each other are effected by a provision of the Constitution are bound to accept the interpretation of the Constitution which the court adopts. The decision also becomes a precedent in all future litigated cases in which the same question arises, and all inferior judicial tribunals, federal or state, are bound by it.

President Jackson, in his celebrated veto of the bill to continue in force the charter of the Bank of the United States, used the following language:

Each public officer, who takes an oath to support the Constitution, swears to support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the Supreme Judges when it may be brought before them for judicial decision. * * * The authority of the Supreme Court must not therefore be permitted to control the Congress or the Executive, when acting in their legislative capacity, but to have only such influence as the force of their reasoning may deserve.

In his Constitutional History, volume 2, page 70, we find the following opinion of the author, Mr. Curtis, with respect to the power of the President in dealing with new legislation:

In general, the President, when called upon to approve of new legislation which undertakes to exercise a supposed power of the Constitution, must interpret the Constitution as an independent duty, and must decide for himself whether the power exists.

That great expounder of the Constitution, Daniel Webster, we have upon the best authority, concurred in this view. In volume 1, page 419, of the Life of Webster, written by Curtis, one of his literary executors, the author makes the following statement:

Mr. Webster never denied that the President, when called upon to decide whether a law is to be enacted, may apply his own judgment to the question whether it is within the scope of the Constitution, although all other branches of the Government have repeatedly decided that similar laws are constitutional. * * * In his view, the Supreme Court was created for the express purpose of acting as the official interpreter of the Constitution; yet he did not deny that when a law is proposed to be enacted all who are to perform a part in that enactment must judge of its constitutional validity for the purpose of governing their legislative action.

Mr. Speaker, this view, expressed as it was in discussing Jackson's national-bank veto, applies with equal force to the legislative branch of the government. Thomas H. Benton, in his Thirty Years in the United States Senate, heartily approved this doctrine and cited numerous authorities in support thereof. It would add no strength to this contention to call attention to the statement of Mr. Blaine, in his Twenty Years in Congress, Volume I, page 137, to the effect that after Mr. Lincoln became President a certain decision of the Supreme Court received no respect, and that it, together with others subsequently rendered, "were utterly disregarded by the President without reversal by the court." Neither would any light be shed upon this question by detailing the vigorous manner in which the legislatures of Virginia and Kentucky, in the famous "Resolutions" of 1798, combated and denounced the alien and sedition acts as a gross violation of the Constitution of the United States. Nor would a statement of the action of South Carolina, in so stoutly resisting the enforcement of the tariff law in the thirties, upon the ground that it was

unconstitutional, illuminate our present inquiry. The proceedings of what is known as the "Hartford convention," in 1814 involved the same questions, now happily obsolete. The early history of our country, and the civil war period as well, affords numerous instances of attack made by citizens and by States also not only upon the official actions of the Supreme Court, but upon the personnel of that tribunal.

ONLY SOUND DECISIONS CAN SUSTAIN A COURT'S DIGNITY AND STANDING.

Mr. Speaker, the great bulwark behind which the Supreme Court has always securely rested, as indeed must be true of every public functionary, has been the justness, the impartiality, and the soundness of its decisions. No earthly tribunal has ever yet reached a position so exalted as to be beyond the reach of the shafts of honest and legitimate criticism when in error. So long as the American people love liberty, justice, and equality, just so long may they be relied upon to promptly and vigorously exhaust every legitimate effort to exact from their public servants this degree of rightful recognition, and little patience will be shown those who undertake to impede such effort by declaring that a Supreme Court decision, however erroneous, is sacred and must be acquiesced in and accepted by all the sufferers of its injustice without even respectfully asking its authors to correct their own wrong.

The weight of authority respecting the duty of a member of a coordinate department of the Government to construe the Constitution as he believes to be right is so clear and so strongly supported by reason as well as by sound public policy, I deem it unnecessary to pursue this inquiry further.

The opponents of an income tax, and, indeed, some of its pretended friends, affect great concern for the dignity of the Supreme Court and the sanctity of its decisions whenever it is suggested that Congress take such action as would secure a reconsideration by that court of a confessedly unsound decision. It is brazenly argued that such step would be indelicate, a breach of propriety, a dangerous precedent, a reflection upon and a rebuke to the court. By inference the authorities I have already cited refute and destroy this suggestion, which at best should be characterized as an impractical absurdity. I desire, however, to cite some utterances of the court itself upon this point, which not only render this objection silly and ridiculous, but thoroughly explode and demolish it as a so-called "argument."

LEGAL SOPHISTRY RUN MAD.

In this connection I recently heard a grave gentleman, classed by his friends as the head of the American bar, announce in another Chamber, with mock solemnity, the startling view that, while it would be right and proper for an ordinary suitor to ask the Supreme Court to reconsider a judgment believed to be unsound, it would result in a serious, undeserved, and unjustifiable injury to the judiciary if 90,000,000 citizens, or suitors, through their Representatives in Congress, should ask this august tribunal to reconsider a 5-to-4 decision, the correctness of which most all persons question.

THE COURT'S READINESS TO CORRECT ERRORS.

Mr. Speaker, in 1869 the Supreme Court of the United States, by a vote of 5 to 3, rendered its first decision in what is known as the "Legal Tender" cases, the case being styled "Hepburn v. Griswold," and reported in Eighth Wallace, 626. This decision held the legal-tender acts of Congress making Treasury notes a legal tender in the payment of preexisting private debts unconstitutional. At this time the membership of the court comprised eight judges. Soon thereafter Justice Strong was appointed to fill a vacancy caused by the resignation of Justice Grier, and Justice Bradley was appointed under an act of Congress providing for an additional judge after the first Monday of December, 1869.

After these changes in the membership of the court had occurred, the Attorney-General of the United States appeared before the court and made a motion that the questions previously decided adversely to the Government be reargued and reconsidered by the court. This motion was allowed, a reconsideration was had, and in December, 1870, a second decision of 5 to 4 was handed down by this court reversing the former one and holding the legal-tender acts in all respects constitutional, and this latter decision stands undisturbed and unquestioned as the law of the land until this day.

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Justice Strong delivered the majority opinion, and in the course of which, doubtless having in mind the arising of similar conditions in the future, commented upon the action of the court in reconsidering its previous action and reversing the same in the following language:

The questions involved are constitutional questions of the most vital importance to the Government and to the public at large. We have been in the habit of treating cases involving a consideration of constitutional power differently from those which concern merely private right. We are not accustomed to hear them in the absence of a full court, if it can be avoided. Even in cases involving only private rights, if convinced we have made a mistake, we would hear another argument and correct our error. And it is no *unprecedented thing* in courts of last resort both in this country and in England, to *overrule decisions previously made*. We agree this should not be done inconsiderately, but in a case of such far-reaching consequences as the present, thoroughly convinced as we are that Congress has not transgressed its powers, we regard it as our duty so to decide.

Justice Strong also suggested in this connection (12 Wall., 554) that the former decision was rendered by a divided court. This plain announcement of the Supreme Court itself with respect to the course it always desires to pursue with reference to an error it has committed ought to be sufficient to forever silence the busy tongues of the self-styled defenders of the dignity of the Supreme Court in connection with this income-tax controversy. But Justice Bradley, who also delivered an opinion in this case concurring in the majority opinion, gave utterance to the following doctrine, which, in the light of the present income-tax controversy, sounds like prophecy:

I cannot consent that the Government should be deprived of one of its just powers by a decision made at the time and under the circumstances in which that decision was made. On a question relating to the power of the Government, where I am perfectly satisfied that it has the power, I can never consent to abide by a decision denying it, unless made *with reasonable unanimity and acquiesced in by the country*. Where the decision is recent, and is only made by a *bare majority of the court*, and during a time of public excitement on the subject, when the question has largely entered into the political discussions of the day, I consider it our *right and duty* to subject it to a further examination, if a majority of the court are dissatisfied with the former decision. And in this case, with all deference and respect for the former judgment of the court, I am so fully convinced that it was erroneous and prejudicial to the rights, interests, and safety of the General Government that I for one have no hesitation in reviewing and overruling it. (12 Wallace, 569, 570.)

Mr. Speaker, this view of the court is strikingly applicable to the decision in the Pollock case. It contains the clear ring of honest candor, an earnest willingness to promptly rectify every error committed, and an eager desire to maintain that lofty standard of judicial learning and fairness established by Jay and Marshall and Taney and others of the early judges, whose ripe scholarship and high legal attainments shed imperishable luster upon the judiciary of the Nation. Did the court in 1870, when a coordinate department of the Government, through the Attorney-General, asked for a reconsideration of one of its decisions, feel itself rebuked, its dignity lowered, or its high standing impaired? On the contrary, it gave the application respectful consideration, and in correcting its former error took occasion to announce through two members of the court that it was not only the right but the duty of the court to thus correct its mistakes. To this same effect had the Attorney-General of the United States previously argued in support of his application for a reconsideration.

WHO ASSAILED THE COURT'S DECISION FOR A CENTURY?

It may be pertinent here to remind the House that since the decision in the Hylton case in 1796, wherein the Supreme Court expressly held that under the Constitution there were no direct taxes subject to the rule of apportionment save a capitation tax and a tax on land, five determined efforts have been made to induce the court to reverse this decision, and not until the opinion in the Pollock case did these efforts succeed. The distinguished head of the American bar must have been inwardly amused when he, with apparent seriousness, suggested that the decision in the Pollock case would now be supported by the doctrine of *stare decisis*.

Those who have clamored for a reversal of the Hylton case have always combated the doctrine of *stare decisis*, and by none was it more severely criticized than by counsel who assailed the income tax during the hearing of the Pollock case. It now ill becomes the opponents of an income tax to invoke this doctrine in support of the decision in the Pollock case, which was wrung from the Supreme Court in spite of the great force of this doctrine. The following ringing appeal for its observance was made by Mr. Justice Brown, dissenting in the Pollock case:

If there be any weight at all to be given to the doctrine of stare decisis, it surely ought to apply to a theory of constitutional construction which has received the deliberate sanction of this court in five cases, and upon the faith of which Congress has enacted two income taxes, at times when, in its judgment, extraordinary sources of revenue were to be made available. (158 U. S., 289.)

But it fell upon either deaf or unwilling ears. Mr. Justice White, in each of his dissenting opinions in the Pollock case, among other things, said that the decision in the Hylton case ---

Had been accepted by the legislative and executive branches of the Government from that time to this, and that this acceptance had been manifested by conforming all taxes thereafter imposed to the rule of taxation thus established. (158 U. S., 710.)

Mr. Speaker. I take it that no court would prefer to see a patent error written into the Constitution and become a part of the law of the land rather than reconsider and rectify that error. Yet I recently heard a great lawyer assert in this Capitol that in his opinion the majority decision in the Pollock case was wrong, but that Congress should, nevertheless, in effect acquiesce, ratify, and accept it as good law and seek to recover its lost taxing power, thereby taken away, by the exceedingly difficult method of amending the Constitution. This worse than inconsistent view can only be harmonized with his reputation as a lawyer upon the theory that he is a determined foe of the income tax.

THE WISER COURSE TO PURSUE.

My position is and has been that since some 35 state legislatures will not again convene until 1911, this session of Congress should have enacted a comprehensive income-tax law and secured the judgment of the Supreme Court upon it at an early date as was done in 1895, and, if unfavorable, next winter's session of Congress could submit the pending amendment without hazarding any greater delay in securing its ratification by the States than its present submission incurs. This course would have enabled Congress to utilize both remedies without prejudice to either. At least neither remedy should be abandoned, though both might properly be invoked at the same time.

I hope at a later day to attempt an extended discussion of the merits of this method of taxation.

HISTORY OF AMENDMENTS --- NUMEROUS QUESTIONS ARISING.

Mr. Speaker, I now turn to another phase of the proposed constitutional amendment now before the House.

Under Article V of the Constitution two-thirds of both Houses of Congress may propose amendments, or the legislatures of two-thirds of the States may apply to have a convention of all the States called for the proposing of amendments, in which case Congress must make the call; when proposed by either form, the amendment may be ratified by the legislatures of three-fourths of the States, or by conventions in the same, as Congress may direct when the amendments are proposed. Since the beginning of the Government approximately 1,500 resolutions, containing 2,000 amendments to the Constitution, have been introduced in one or both branches of Congress. Of this great number only 19 amendments have succeeded in securing the requisite two-thirds vote and gone to the States for their ratification. Of this latter number only 15 have been ratified by the States and become parts of the Constitution. James Madison, the author of Article V, authorizing amendments to the Constitution, was also the author of the first 10 amendments to that instrument, known as the "Bill of Rights." He also offered in Congress two additional amendments, which in turn were submitted by Congress to the States. One of these pertained to the apportionment of Representatives, and the other to the compensation of Members of Congress, both of which failed of ratification by the States.

ELEVENTH AND TWELFTH AMENDMENTS.

Soon after the ratification of the Constitution the Supreme Court held that a State could be sued in the federal court by a citizen of another State; this provoked great indignation, especially among the States heavily in debt, as a result of which a movement was immediately started to amend the Constitution. Accordingly, the outgrowth of amendments proposed in Congress was the adoption of the eleventh amendment a little later. It is interesting to observe here that this amendment was assailed because of the failure of the President to sign it, and the Supreme Court, in Third Dallas, 378, decided that the President "has nothing to do with the proposition or adoption of amendments to the Constitution." Notwithstanding this decision, Congress has since discussed the matter often. In 1861 President Buchanan signed an amendment proposed to the States by Congress. President Lincoln signed the thirteenth amendment, whereupon the Senate passed a resolution to the effect that his signature was unnecessary. John

Quincy Adams announced the view that the President should not recommend amendments to Congress, since he had no share in their adoption, but this view has not been generally accepted by other Presidents, either before or since.

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The long controversy before Congress between Jefferson and Burr for the Presidency suggested the immediate necessity for another amendment to the Constitution. Accordingly, after numerous attempts, Congress submitted to the States what was afterwards known as the "twelfth amendment," which was soon ratified. The Federalists opposed it in Congress, raising the question that it had not received the vote of two-thirds of the membership of the Senate, but only two-thirds of those present. Precedents were cited by its supporters showing that some of the first ten amendments were proposed to the States by a vote of two-thirds of the Members present only. This amendment became a part of the Constitution in 1804.

In 1810 Congress proposed to the States an amendment prohibiting anyone from accepting a title of nobility, a present, or an office from any foreign government, without the consent of Congress; but this amendment failed of ratification by one vote. In 1861 what is known as the "Corwin amendment," relating to the interference with slavery within any State, was proposed to the States by Congress. It was in the nature of a compromise, but, some of the States having already seceded, nothing came of the matter. Early in 1865 the thirteenth amendment, abolishing slavery, was proposed to the States by Congress, but not until after a heated struggle extending over many months. It became a part of the Constitution in December of that year.

PECULIAR HISTORY OF FOURTEENTH AMENDMENT.

Mr. Speaker, very soon thereafter amendments were proposed in Congress looking to the adoption of what was afterwards known as the "fourteenth amendment," with the result that, according to the version of some, the fourteenth amendment was duly ratified and became a part of the Constitution in July, 1868. Some singular circumstances attended the alleged adoption of this amendment. While the sole function of Congress with respect to amendments is to propose to the States such amendments as two-thirds of both Houses see fit, to be ratified or rejected, either by state legislatures or conventions, yet Congress in this instance did not permit all the States to so act upon this proposed amendment. What is known as the "reconstruction acts" were in operation in 10 States, though President Johnson had held them unconstitutional, while a hurried act of Congress intercepted and prevented a consideration by the Supreme Court of the constitutional validity of these acts. Under these acts existing state governments were abolished and new governments, created by a convention of delegates made up largely of negroes, were substituted. Under this regime if a state government was about to reject the proposed amendment it was promptly deposed and one of those new governments at once installed, whose action would insure immediate ratification. This course seems to have been at direct variance with the constitutional provision, which directs that only "legislatures" or "conventions" in the States are given authority to ratify or reject amendments proposed by Congress. Congress can only direct as to whether a State shall act on an amendment by its legislature or a convention, and with this the power of Congress terminates. Lincoln's great Secretary of State, William H. Seward, was an exceedingly able lawyer; he had remained in this official position under President Johnson's administration. The act of Congress of 1818 made it the official duty of the Secretary of State to certify whether an amendment has become a part of the Constitution by being duly ratified by the States. Secretary Seward issued two proclamations with reference to the ratification of this amendment, instead of the usual one. When he issued the first proclamation, his legal knowledge and sense of justice did not permit him to recite therein that this amendment had been duly ratified by three-fourths of the States, but, instead, this proclamation declared that the amendment had been ratified' by the legislatures of certain States --- naming them --- and that in six States it had been ratified "by newly constituted and established bodies avowing themselves to be and acting as the legislatures, respectively."

In other words, they were ratified by de facto legislatures. Another unusual recital in the proclamation grew out of the fact that Ohio and New Jersey, after having ratified the amendment and before the requisite three-fourths of the States had done likewise, withdrew their ratification, his proclamation hypothetically reciting that if Ohio and New Jersey had no right to withdraw their ratification, the amendment was duly ratified by the requisite number of States. Secretary Seward was evidently strongly impressed with the view that a state legislature had the right to withdraw a ratification previously made at any time before

an amendment's due ratification by three-fourths of the States; otherwise, as to this qualification he would have unhesitatingly issued the usual proclamation. Then it was that John Sherman, of Ohio, introduced in the Senate a concurrent resolution declaring the ratification sufficient, which passed both Houses of Congress, and the Secretary of State thereupon issued a second proclamation declaring the amendment duly ratified. The steps attending the ratification of what is known as the "war amendments" were so arbitrary, irregular, and unusual as not to be considered reliable precedents to follow in amending the Constitution.

WHEN AN AMENDMENT BECOMES A PART OF THE CONSTITUTION.

It must be conceded that the moment three-fourths of the States duly ratify an amendment it becomes a part of the Constitution, the proclamation of the Secretary of State being a mere ministerial act. Hence it follows that Congress has no power in the premises after it has once proposed an amendment to the States as the Constitution provides, not even of recalling the amendment; therefore the passage of any resolution by Congress declaring that a given amendment has or has not been duly ratified by the States, such as was done with respect to the fourteenth amendment, is ultra vires and void.

While it is an unsettled question, the weight of authority and reason is that the Constitution contemplated that a state legislature has the undoubted right to withdraw a ratification previously made at any time before an amendment is ratified by three-fourths of the States.

In 1869 Congress proposed the fifteenth amendment to the States, after a lengthy discussion, and it became a part of the Constitution early in 1870.

IMPEDIMENTS TO AMENDMENT.

Mr. Speaker, from this brief resume of the course of the 19 amendments that have been submitted to the States by Congress since the beginning of the Government, not to mention the other 2,000 proposed amendments that failed to pass through Congress, it will be seen that many impediments to amendment exist. According to the census of 1890, it has been computed that 11 States, with a population of 2,344,115, or 3.7 per cent of the total population of more than 60,000,000 people, can defeat an amendment. (Ames on Constitution, p. 304.) Also that, according to the figures of the election of 1876, the legislatures elected by 282,230 voters could defeat an amendment that might be supported by 8,123,559 voters, or more than 96 per cent. (See H. Rept. 819, 45th Cong., 2d sess.)

Save in one instance, wherein Illinois ratified the thirteenth amendment by a convention, contrary to the method prescribed by Congress, no State has ever attempted to ratify an amendment except through its legislature, though many attempts have been made to induce Congress to direct the convention method. Numerous controversies have arisen over the question as to whether the governors of States should sign the resolution of amendment when ratified by the legislatures, governors having assumed to do so in several instances. It is evident that the governor has no authority or voice in the matter.

Many efforts have been made in Congress to direct that "a proposed amendment should be brought before legislatures hereafter elected for ratification," and that when once ratified there shall be no reconsideration; also providing that a ratification should not be valid unless within a certain prescribed time; but each proposition failed. In this connection it may be observed that Tennessee inserted a provision in its last constitution to the effect that ---

No convention or general assembly of this State shall act upon any amendment of the Constitution of the United States proposed by Congress to the several States unless such convention or general assembly shall have been elected after such amendment is submitted. (Const. of 1870, Art. II, sec. 32.)

No other state constitution contains this provision. As to whether this restriction contravenes the Federal Constitution has not been determined. It is a historical fact, however, that the present 15 amendments to the Constitution were ratified by state legislatures, a majority of which had been elected before the amendments were sent to the States for ratification. (Ames on the Constitution, p, 290.)

FRIENDS OF INCOME TAX MUST BE ALERT.

Mr. Speaker, I have already detained the House too long. I shall use every honorable means to aid in securing the adoption of the proposed amendment, though it is very defectively drawn. I desire however, to warn those who would restore to Congress this strong arm of its taxing power by amendment to the Constitution that they must be alert and vigilant. It is not my desire nor is it the desire of any fair-minded citizen, to impose upon the wealth of the country any undue or unjust proportion of the burden of taxation,

but it is a matter of common knowledge that those most able to share this burden have succeeded in avoiding it totally during the last forty years. Whatever objections may be offered therefore to the imposition of the proposed income tax must necessarily be of a captious nature and designed solely to secure perpetual immunity from taxation to this class of citizens. Everyone knows that this class, in conjunction and partnership with the Republican party, now dominates and for almost a half century has dominated, every department of the Government. However, in view of the revenue necessities and the unbearable tax rates, unfairly resting as they do upon only a portion of the people, I trust enough Republicans will support this amendment to insure its adoption. We welcome them into line, howsoever unwillingly they come. If it were not pitiable, it would be amusing to behold the average Republican leader fighting in earnest in behalf of a reform measure or a progressive administrative policy. For it has been long understood that he never enlists in such a worthy cause willingly, but only when writhing under the lash of public sentiment. This has been true of the Republican organization throughout its history. Too stupid to devise and enact wholesome laws and to formulate and execute sound administrative policies, this piratical organization is wont to wait until Democrats point the way, and then with a cupidity rarely seen appropriate the great principles and policies of the Democratic party, one by one. Among the doctrines of the Democratic party literally stolen by its adversary during the past few years may be mentioned the principle of arbitration of differences between employers engaged in interstate commerce and employees; the rate regulation of railways; prosecution of trusts, though only an occasional pretense at trust suppression; tariff reform, though but a hypocritical pretense at tariff revision, in its nature downward before the election but upward after the election; ostensible support of the income tax. As an exhibition of the agility of this party, I call attention to the following Republican axioms published in that party's campaign text-book in 1894:

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In this country an income tax of any sort is odious, and will bring odium upon any party blind enough to impose it. * * * Prepare for the funeral of the political party which imposes such a burden.

REPUBLICAN TARIFF HUMBUGGERY.

When that veteran showman, P. T. Barnum, gave utterance to his life experience to the effect that the people like to be humbugged, he must have had in mind also the painfully cruel manner in which the Republican party, with its high-protective tariff, deceives, humbugs, hoodwinks, and defrauds the American people. The truth of this statement could not be better illustrated than by that party's present so-called "revision" of the tariff. How long will or can the country endure this "system?" Until we can secure the imposition of an income tax, and thereby destroy it? "We shall see what we shall behold." [Applause on the Democratic side.]

Mr. LONGWORTH. I yield ten minutes to the gentleman from Kansas [Mr. MILLER].

Mr. MILLER of Kansas. Mr. Speaker, I have some very well defined views on the subject of the taxation of corporations, have always believed that corporate wealth should bear its just share of the burdens of government, but do not care at this hour to enter into a lengthy discussion of the subject, but simply express an opinion as to what I deem the wisest action the House can take at this time.

We are called upon now to pass upon the question whether or not we are willing to place a tax upon corporations. During this discussion there has been a good bit of talk, especially among our friends on the other side of the aisle, about a tax upon wealth and not a tax upon want or upon poverty. I have never heard of anybody anywhere, either in this Hall or elsewhere, advocating any tax either upon poverty or upon want, and I imagine that the man who would advocate a tax upon either poverty or want would eventually find himself in the insane asylum, where he belongs. It may be all right for political purposes and to seek to make political capital to try to make the poor people of this country believe that some political party is wanting to rob them.

There is no political party that is foolish enough to attempt to rob the poor, and there is no political party in this country that has any desire to put any tax of any kind upon any portion of our people greater than their ability to bear the burden; but the Republican party has always favored an equitable system of taxation, and it is the belief of this party that all classes of our people ought to bear their just proportion of the burdens of government, and, whether they be rich or poor, that they ought to be called upon alike to bear those burdens.

Mr. SULZER. Does the gentleman think a protective-tariff tax is an equitable tax?

Mr. MILLER of Kansas. I think that a protective-tariff tax properly levied is not only equitable, but that it is a tax that has always brought prosperity to the American people.

It has always given employment to the labor of this country, and under this system for the past twelve years our people have enjoyed the most marvelous prosperity the world has ever seen. I am surprised that the gentleman from New York comes here and complains about legislation that has given to the people of that great State the wealth it has within the last twelve years.

Mr. SULZER. Will the gentleman yield?

Mr. MILLER of Kansas. Certainly.

Mr. SULZER. Does the gentleman claim that there ever was a line written in any protective-tariff law or tax bill adopted by the Republican party that benefited the laboring man?

Mr. MILLER of Kansas. I say that every line ever written in any Republican platform and enacted into law upon the subject of protection has brought wealth to the American people and has given employment to the laboring men of this country, and that it has made the poor man rich and not the rich man poor, as advocated by some gentlemen on that side.

Mr. JAMES. The gentleman says that the protective policy of the Republican party has brought great wealth to the country and benefited the laboring men. I would like to ask him what brought on the panic and threw 3,000,000 men out of employment?

Mr. MILLER of Kansas. Some bankers of this country brought on a financial panic. It was not the fact that laboring men were out of employment. I remember the language used by Mr. Gompers in the campaign during the time when the Democratic party was in power, when he said that more than two and a half million laboring men of this country were out of employment, and that their wives and children were begging for bread. And I remember shortly after that time, when the Republican party enacted the law of 1897, when nobody was out of employment and nobody begging for bread.

Mr. JAMES. Will the gentleman permit another question?

Mr. MILLER of Kansas. Certainly.

Mr. JAMES. The gentleman puts the responsibility for the panic on the bankers. If that is true, your party in control of this Government uninterruptedly for the last twelve years and almost forty years, with the exception of four years or perhaps eight years, has then legislated in such a manner that the bankers of the country have such control of this country that they can throw the whole country into a panic and throw out of employment millions of men.

Mr. MILLER of Kansas. I have no time to discuss the question of the recent panic, if you are to dignify it by that name. It is sufficient to say that it pales into absolute insignificance in comparison with the Democratic panic when Grover Cleveland and the Democratic party was in power.

Mr. BYRD. Will the gentleman yield?

Mr. MILLER of Kansas. Yes.

Mr. BYRD. I want to ask the gentleman this question: If the Republican policies of this country during the last forty years have been so beneficial, why is it that the Republican party wants to steal all the good things out of the Democratic platform and enact them into law? [Laughter.]

Mr. MILLER of Kansas. Mr. Speaker, it is not necessary for me to discuss the reasons why the Republican party wants to enact certain kinds of legislation. This great party never asks the Democratic party when or how it shall legislate; in all the years of its history it has responded to the wishes of the people. And now, as in the past, it is about to write upon the statutes another wise and beneficent act of legislation; and this in response to the wishes of the American people and in accord with the promise made in the last national Republican convention. And when this act is consummated, as it will be in a very few days, the tariff will have been revised downward, the pledges of the party sacredly kept, and the American people will enter upon a new era of prosperity.

Mr. RUCKER of Missouri. Will the gentleman yield?

Mr. MILLER of Kansas. Well, I will yield to the gentleman from Missouri; he is always fair.

Mr. RUCKER of Missouri. I understand that gentleman to say that the last forty years, with the exception of four years, under Republican rule, they have benefited all the people, and especially the laboring men. I would like to ask the gentleman to explain, if his conclusions are correct, why it is that to-day there is a larger percentage of American people who own no homes than ever before in the world?

Mr. MILLER of Kansas. Mr. Speaker, I simply say the gentleman from Missouri is mistaken.

And on the contrary I aver that there are more laboring men in America to-day who own their homes than at any other period in the history of the Republic, and that there are more homes owned by the laboring people of America to-day than are owned by all the laborers of the rest of the world.

Mr. RUCKER of Missouri. Oh, but that is the fact.

The SPEAKER. Does the gentleman from Kansas yield further to the gentleman from Missouri?

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Mr. MILLER of Kansas. No; I think I will not.

There has been a great deal of criticism, and some on this side as well as on the Democratic side, of the position of the Republican party upon the subject of a tax upon corporations. I do not agree with the gentleman from Massachusetts, who talks about this kind of legislation being "the political Jack Cade of the future for the levying of political blackmail." That may be all right for the people of New England who have enjoyed the benefits of the levying of political blackmail more than any other section of the country, if there has ever been any such levying as the distinguished gentleman talks about. There is not a State or municipality in this country that does not have a statute or ordinance of some kind in reference to taxation of wealth. Just take a man who goes into a community or city and wants to sell his wares or merchandise upon the streets of that city. What is done before he can do it? He must first go to the city clerk and get permission to sell his wares there.

What is that? Is that a direct tax? That is a tax upon his business. And so I say, when you come to the question of corporate wealth, we do not propose a direct tax, but a tax on the business of the corporation, and which the Supreme Court has already declared constitutional. While personally I favor an income tax, yet I am aware of the fact that the Supreme Court has declared such a tax unconstitutional, and for this reason I shall support a corporation tax, which is constitutional, and will vote for the submission to the people of the country for their decision an amendment to the Constitution to provide for the taxing of incomes.

Now, I want to appeal to my Democratic friends, if they are honestly in favor of an income tax, and I believe they are, to join us in this one act of legislation. Of course I remember that during the civil war every Democrat in both branches of Congress, but one, voted that the income tax was unconstitutional; but if you believe in the declaration of the Democratic platform at Denver last year, and if you believe with the utterances of your party leaders upon this floor that an income tax is constitutional, then fall in line with the Republicans who are going to enact legislation along this line and help us out upon this proposition. I agree with the gentleman from Missouri on the question of the amount of corporate wealth that ought not to be taxed. I would put it possibly as high as \$10,000, at least above \$7,500.

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

Mr. BURLERSON. I would like to know ---

Mr. LONGWORTH. I yield the gentleman from Kansas ten minutes additional.

Mr. BURLERSON. I would like to know how many Democrats were here during the civil war.

Mr. MILLER of Kansas. Mr. Speaker, there were 45 Members here at that time, and the rest were not here because they had voluntarily gone out to destroy the Union, and that is why they were not here filling their places. I want to suggest to my friend from Texas that this is no time for a gentleman from Texas to raise this issue. We are here discussing a question of taxation that is to be applied to our people now and not the issues growing out of the civil war. Upon that subject I will be very glad to talk at some other time, but not now.

Now, Mr. Speaker, I want to call the attention of the gentleman from Massachusetts [Mr. McCALL] --- I do not see him here, however --- to the fact that I do not agree with his position upon this question of taxing incomes. He says we cannot do it under our Constitution, and thinks that the Constitution ought not be modified or changed so that it can be done, and says that it is a tax upon industry and upon wealth. If there is any tax in this country that is not a tax upon industry or wealth, I would like to know what it is. Why should the gentleman from New England stand here, representing that section of the country that has been made great and prosperous on account of the system of taxation of this Republic, and say that we have no right to tax the wealth of this country? New England became great and powerful under the system of protection that has made this country what it is to-day. They were more fortunately located than the States in the central or extreme West.

The population from other countries came there first, and they found the manufacturing in this country done in New England, as it was done in that early day. So the wealth that came from abroad went to New England, as well as the laborers, and they had a surplus of both. Now, because a tax of this kind would rest more heavily upon New England than possibly any other section of the country, the first voice to be heard against it comes from that same New England, the section of the country that has been more favored by legislation than any other.

I want to suggest that that section of our country that has been so marvelously prosperous as a result of legislation should be the last to come here and advocate anything else than an income tax. And whether New England wants an income tax or not, I think she will find that when the subject is submitted to the American people, as it will be, three-fourths of the States of this country outside of New England will vote to change the Constitution so as to provide in case of war for the levying of a tax upon the wealth of the country to assist in saving the life of the Nation itself. The great West and the South will control in that matter, in my judgment, and I want to suggest to you gentlemen of the South, who are exceedingly anxious for the income tax, that you go home and take care of your legislatures and your States upon this subject, and I stand here as a representative of the Republican party of the Central West to pledge you my word that those great Western States will be found voting with you for an income tax. [Applause.]

I yield back the balance of my time.

Mr. CLARK of Missouri. I yield five minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Speaker, I am not going to discuss the tariff question, so nobody need leave the Chamber. [Laughter.] I happen to have the honor of offering the first legislation for taxing incomes of corporations as well as individual income at this session. I tried to offer an amendment to the tariff bill when it was pending in the House, but could not be recognized for that purpose. I then introduced it as a bill on the 9th day of April, 1909. I now read it:

A bill (H. R. 6864) to levy and collect a tax on the gross receipts of all corporations, firms, or persons doing an interstate business.

Be it enacted, etc., That every person, firm, company, or corporation owning or possessing or having the care or management of any railroad, sleeping car, canal, steamboat, ship, barge, canal boat, or other vessel engaged or employed in the business of transporting passengers or freight for hire, or in transporting the mails of the United States from one State or Territory of the United States to any other State or Territory, or to or from any State or Territory of the United States and the District of Columbia, and every person, firm, company, or corporation carrying on or doing an express business from one State or Territory of the United States to any other State or Territory of the United States, or to or from any State or Territory and the District of Columbia shall be subject to and pay a special annual excise tax equivalent to one-fourth of 1 per cent of the gross receipts derived by said person, firm, company, or corporation from passengers, freight, mails, or express matter so carried from one State or Territory of the United States to any other State or Territory of the United States, or to or from any State or Territory and the District of Columbia; and such tax shall be rated for the transportation of persons, freight, mails, or express matter from a port or place within the United States through a foreign territory to a port or place within the United States, and not within the same State or Territory, and shall be assessed upon and collected from persons, firms, companies, or corporations within the United States receiving hire or pay for such transportation of persons, freights, mails, or express matter.

SEC. 2. That from every person, firm, company, or corporation owning or possessing or having the care or management of any telegraphic or telephone line by which telegraphic or telephone dispatches or messages are received or transmitted shall be subject to and pay a special annual excise tax of one-fourth of 1 per cent on the gross amount of all receipts of such person, firm, company, or corporation, for the transmission of dispatches and messages from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia.

It provides for a tax of one-fourth of 1 per cent upon the gross receipts of individuals, firms, or corporations engaged in interstate business, upon all gross receipts from such interstate traffic, and leaves the State to tax corporations that do business wholly within the State, uninterfered with by the Federal Government. It is purely an excise tax, which reaches the bondholder and everybody else in interest, and cannot be evaded or manipulated. Under a very small tax of one-fourth, one eighth, or one-tenth of 1 per

cent of the gross receipts, in all probability it will bring money into the Treasury in excess of the proposed 2 per cent upon net incomes of corporations. The idea was suggested to me by reason of my service on the District Committee of this House. That system of taxation is now the law in this District of Columbia, and has been ever since I have been a Member of the House. Gas companies, street car companies, and all public-service corporations doing business in this District, in addition to paying taxes of their fixed property, pay a tax of 4 and in some cases 5 per cent on their gross receipts. Some objection has been made to this method of taxation, upon the idea that if a corporation made no money as profits it should not have to pay any part of its earnings as taxes. It is claimed that that might destroy the value of the property, and that it should not pay a tax when it is not making any net earnings. In this District I have known cases where street car companies were in the bands of receivers, when there was a deficit in earnings made every year; and yet they had to pay the same taxes on their gross receipts as the company that was making money. Now, it is not too late for us to act on this matter. I am glad the President has shown that breadth of mind and depth of wisdom that when he finds one form of legislation is a better one than someone he had formerly recommended, he is willing to submit another proposition in lieu of what at first seemed the wiser course.

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Now, while the committee of conference is considering this corporation tax, let it take up this bill of mine as a mere suggestion and make it a basis of a corporation tax, leaving all the corporations chartered by the States that are doing business wholly within a single State to the States, counties, and municipalities. Then provide that all corporations, partnerships, firms, or individuals doing an interstate business shall pay a tax of such per cent as the conferees may think wise upon all gross receipts from interstate business. They have interstate benefits and rights of which no State can deprive them. Let us levy this tax upon their gross receipts from their interstate business. Such a tax cannot be evaded. It is the same as operating expenses and must be collected before even officers can be paid salaries. I have no objection to publicity of corporation affairs; in fact, I believe in it; but it is not necessary to levy a tax on net incomes or earnings in order to give the Government power to investigate and properly regulate corporations doing interstate business. The men who will be obliged to make these investigations as to the net earnings of corporations are human, and many instances will be found where the statements of these special agents will not be the truth and the report a fraud. Now, under this bill of mine the tax cannot be evaded. The gross receipts is the first thing that will show in the matter of bookkeeping. There cannot be any doubt about that. The amount of the tax will be so small that there will be no inducement for evasion.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LONGWORTH. I yield three minutes more to the gentleman.

Mr. SIMS. I am not opposed to an income tax, and as a matter of course shall vote for this resolution. I am not discussing the resolution, but this other matter is now pending. The conferees now have the matter before them. This proposition of mine is not discriminating. It taxes an individual, a firm, and a corporation upon exactly the same basis.

Now, take the case of a state corporation. A number of persons of small means get together and organize a corporation and build a hotel or apartment house on one corner of the street. Over on the other corner a rich individual builds another one and gets the same returns from it. The Federal Government taxes the one that does its business wholly within the State and relieves the rich individual, doing identically the same kind of business, from the tax. This amendment of mine will remove all such objections. It will not be in the way of an income tax whenever an income tax bill comes before the House, because it is not an income tax. It is not double taxation. It is not taxation upon "prosperity and a penalty upon wealth." It is taxation that reaches all alike who do interstate business and does exact and equal justice to all subject to the tax.

Senator BEVERIDGE offered in the Senate an amendment to tax the gross receipts of corporations. He offered that amendment on the 19th of April, 1909, ten days after I had introduced my bill. The Senator from Virginia [Mr. DANIEL] offered an amendment on the 7th of July, 1909, for the same purpose; but these amendments were to tax the gross receipts of corporations only, and without any regard to whether the business was state or interstate, so that they do not make that necessary discrimination or put the tax upon corporations that get the benefit of laws applying to interstate commerce.

I have no partisan feeling about this. I hope that the conferees, although this suggestion comes from an humble source, may consider it worthy of their consideration and adopt it instead of the corporation-tax provision now carried in the bill, against which there exist so many reasonable and weighty objections that do not apply to a tax on gross receipts as proposed in my bill.

Mr. CLARK of Missouri. I yield to the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT of Georgia. Mr. Speaker, any proposition to amend the Constitution of the United States should be carefully considered and not hastily adopted. This instrument, as proposed by the fathers of the Republic, many of whom had taken part in the struggle for independence and who were the wisest in their generation, if not the wisest in any generation of our history, should be preserved and only changed when the demand for change is imperative. The elements and principles of the American Constitution were neither manufactured nor borrowed, but grew up amidst and along with the American people, and were formulated by men who understood the then present needs and requirements of the American people, and who seemed to have been inspired with the capacity to see into the future so as to make a Constitution that would meet all the future needs of the American people. It has been truly described as the "most wonderful work ever struck off at a given time by the brain and purpose of man." It is true, as was said by Judge Storey in an early case reported in the First Wheaton, it unavoidably deals in general language. It did not suit the purposes of the people in framing this great charter of our liberties to provide for minute specifications of its powers or to declare the means by which those powers should be carried into execution. It was foreseen that this would be a perilous and difficult, if not an impracticable, task.

The instrument was not intended merely to provide for the exigencies of a few years, but was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purposes of Providence. It could not be foreseen what new changes and modifications of power might be indispensable to effectuate the general objects of the charter, and restrictions and specifications which at the present might seem salutary might in the end prove the overthrow of the system itself. Hence its powers are expressed in general terms, leaving to the legislature, from time to time, to adopt its own means to effectuate legitimate objects and to mold and model the exercise of its powers, as its own wisdom and the public interests should require. And this is as true to-day as it was when the Constitution was adopted.

THE AMENDMENTS TO CONSTITUTION.

While there are 15 amendments to the Constitution, the first 10 may be really said to be a part of the original instrument, because they were all adopted under a resolution passed on September 25, 1789, and they were adopted as amendments to the Constitution, because the Constitution could not have been ratified by the several States but for the understanding that these 10 amendments were to be adopted.

The very preamble which submitted these 10 amendments recites the fact that the States at the time they adopted the Constitution expressly desired that, in order to prevent misconstruction or abuse of its powers, further declaratory and restrictive clauses should be added. So that we are authorized to assert that the first 10 amendments were really a part of the great original instrument itself, because without the assurance that they would become a part of the instrument the people of the States would not have adopted the original Constitution.

The eleventh amendment was adopted in 1798, on a resolution passed in 1794. This amendment grew out of the fact that the Supreme Court of the United States had decided that a sovereign State was liable to be sued in the courts of the United States by a private citizen. The case which gave rise to so much comment and really gave rise to the demand of the people for the adoption of the eleventh amendment was the case of *Chisholm v. The State of Georgia*, reported in Second Dallas, and this decision, pronounced by a divided court, so aroused the people and so endangered the rights of the States to maintain their sovereignty that the eleventh amendment was demanded and ratified by the people.

The governor and authorities of the State of Georgia refused either to appear in the court or to respect the judgment of the Supreme Court in the case; and that other States might not be subjected to the same indignity, the eleventh amendment was adopted, which provided that the judicial power should not be construed to extend to a suit prosecuted against one of the United States by citizens of another State or citizens subject to a foreign state. So in that case the people were compelled to protect themselves against what was deemed to be a wrong decision by the Supreme Court of the United States by an amendment to the Constitution.

The twelfth amendment grew out of the famous contest for the Presidency in 1800, in which Mr. Jefferson and Mr. Adams and Aaron Burr were candidates, Jefferson and Burr being candidates on the same ticket, one for President and the other for Vice-President, and both receiving the same number of votes.

Under the Constitution as it then existed, the candidate who received the highest number of votes was to be President and the one receiving the next highest was to be Vice President. This contest for the Presidency was thrown into the House, and to avoid a recurrence of this sort of contest for the Chief Magistracy of the Government the twelfth amendment was adopted. The resolution proposing this amendment was adopted in December, 1803, was ratified by three-fourths of the States, and the proclamation carrying it into effect was issued by the Secretary of State on September 23, 1804.

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The other three amendments are what are known as the "war amendments." For forty years and more no resolution to amend the Constitution of the United States has been submitted to the States. The thirteenth amendment abolished slavery, which was the result of the civil war, and the fourteenth and fifteenth amendments were likewise the result of the civil war, growing out of the new relations which the slaves, who had been freed, then bore to the Government. These last two amendments, in my judgment, were never really adopted. They were submitted to the States, and by the superior power of the then dominant party, with the aid armed force, the legislatures of at least 11 of the States were forced to consent; and it is to this day doubtful whether they were ever legally adopted or whether the requisite number of States then in the Union ever voted for their ratification. The proclamation by the Secretary of State at the time these last two amendments were adopted is my authority for the assertion that their adoption in the manner prescribed by the Constitution is a matter of very serious question and doubt. The reason for the assertion of this opinion I need not now give, because it has been given a number of times, and the question has never been really submitted to the Supreme Court of the United States; but I venture to assert that if the question could ever be submitted to an impartial legal tribunal it would be evident, from the record which contains the statement of what was done by the several States in voting upon these amendments, that they had never been legally adopted and that they did not receive the approval of the requisite three-fourths of the States of the Union.

From this short history of these amendments to the Constitution, it will be seen that the people have been very reluctant to amend the Constitution of the United States, and it is well that they should be. It is not a trivial matter or a matter to be hastily proceeded with.

THE PROPOSED AMENDMENT.

We have now a proposition to again amend the Constitution of the United States, growing out of the fact that the Supreme Court of the United States in a decision rendered in 1895, and known as the "income-tax decision," reported in the One hundred and fifty-seventh and One hundred and fifty-eighth United States Reports, decided that Congress had not the power to levy a tax upon the incomes of the citizens of the United States without an apportionment of the tax among the States according to population --- in other words, that an income tax was a direct tax, and therefore Congress had no power to levy the same except in the manner prescribed for the levy of capitation and direct taxes. Thus the American people are again presented with the proposition to amend their fundamental law because of an extraordinary decision by the Supreme Court of United States. In the case of *Chisholm v. Georgia* the court held that the sovereign State of Georgia was subject to be sued by a private citizen of another State, and in that case the court abandoned the universal and accepted rule that the sovereign could not be sued except by its own consent. This so aroused the people and the representatives of the people in Congress that they insisted that the rule so promulgated by the Supreme Court of the United States, that a sovereign State should be subject to be dragged into court against its consent by a private citizen, should be cured by an amendment to the Constitution.

In the income-tax case the court, by a narrow margin of one, again reversed what was thought to be a universal and accepted rule, that a tax upon incomes was not a direct tax and could be levied by Congress without complying with the rule of apportionment prescribed in the case of capitation and direct taxes. Up to that time and for a hundred years prior thereto, commencing with the case of *Hylton v. The United States* and ending with the case of *Springer v. The United States*, reported in the One hundred and second United States Report, it had been held that capitation taxes and taxes on land were the only direct taxes. I will not say that this decision aroused the indignation of the people, but it did create dissatisfaction with and distrust of the court; and from the date of the rendition of that decision until now there has been a constant demand on the part of the Democratic party and the Democratic masses that something should be done which would compel the wealth of the Nation to pay its just proportion of the taxes

for the support of the Government: I do not believe that this amendment is necessary. I should gladly vote for a bill which would levy a tax upon incomes and require the government officials to collect it, and let the court again have the opportunity to pass upon the question. I have great respect for the courts of the country and a very high and exalted respect for the highest court of our country and the greatest court in the world; but I respectfully say that that decision by the majority of the court in the income-tax case can not be sustained or justified in principle or in justice. It has done more to create want of confidence in the court than any decision rendered in recent years.

The members of the Supreme Court who dissented from that decision, and who are as able as any of the members of the court at that time, in their dissenting opinions criticized the decision of the majority of the court in as severe terms as I would care to employ. They said that the decision disregarded the former adjudications of the court and the settled principles of the Government, that it might well excite the gravest apprehensions, and that the decision would provoke a contest in this country from which the American people would have been spared if the court had not overturned its former adjudications; that respect for the Constitution would not be inspired by the narrow and technical construction which the court had given that instrument; that the court had resuscitated an argument that had been exploded in the Hylton case and that had lain practically dormant for a hundred years; that it was fraught with immeasurable danger for the future of the country and that it approached the proportions of a national calamity; that it was a judicial amendment to the Constitution; and that the decision was fraught with danger to the court, to each and every citizen, and to the Republic. No citizen would have expressed his disapproval of the decision in more apt terms, and, so far as I am concerned, I am content to repeat the criticisms of the judges who dissented and to adopt them as my views and criticisms of the decision. Before doing so, however, I desire to call attention to the fact that Alexander Hamilton argued the case of Hylton v. The United States, reported in the Third Dallas, for the Government, and in his brief laid down the proposition that capitation, or poll, taxes and taxes on land were the only direct taxes; that all else must of necessity be construed as indirect taxes, as contemplated by the provision of the Constitution which gives Congress authority to levy and collect taxes, excises, and duties on imports.

The Supreme Court, in its opinion, followed this definition and repeatedly announced it, and especially is that principle announced in the cases of *Pacific Insurance Company v. Soule* (7 Wall., 433); *Yeazy Bank v. Fenno* (8 Wall., 533); *Scholey v. Rew* (23 Wall., 331); and *Springer v. United States* (102 U. S. R., 586).

So that the judges whose dissenting opinions I quote amply sustain me in the assertion that this decision of the court, reported in the One hundred and fifty-seventh and One hundred and fifty-eighth United States Reports, overturned the decisions of the court for a hundred years prior thereto, and that, too, upon an argument presented to it which had been exploded by the court in the Hylton case, and which for a hundred years had lain dormant, but which was revived and made to do duty in nullifying the income-tax law of 1894.

CRITICISMS OF THE DECISION BY MEMBERS OF THE COURT.

In his dissenting opinion in the One hundred and fifty-seventh United States Reports, Justice White, after quoting many decisions which had upheld the constitutional power of Congress to levy an income tax, and showing that it was not a direct tax, said:

If it were necessary that the previous decisions in which the court upheld this kind of tax should be repudiated, the power to amend the Constitution existed and should have been exercised. Since the Hylton case was decided the Constitution has been repeatedly amended. The construction which confined the word "direct" to the capitation and land taxes was not changed by these amendments, and it should not now be reversed by what seems to me to be a judicial amendment of the Constitution.

He further said:

I can not resist the conviction that the court's opinion and decision in this case virtually annuls its previous decisions in regard to the powers of Congress on the subject of taxation, and is therefore fraught with danger to the court, each and every citizen, and the Republic.

In his dissenting opinion, Justice Harlan referred to the decision in the following terms:

In my judgment, to say nothing of the disregard of the former adjudications of this court and of the settled practice of the Government, this decision may well excite the gravest apprehensions. It

strikes at the very foundations of national authority in that it denies to the General Government a power which is, or may become, vital to the very existence and preservation of the Union in a national emergency, such as that of war with a great commercial nation, during which the collection of all duties upon imports will cease or be materially diminished. * * *

But this is not all. The decision now made may provoke a contest in this country from which the American people would have been spared if the court had not overturned its former adjudications and had adhered to the principles of taxation under which our Government, following the repeated adjudications of this court, has always been administered.

But the serious aspect of the present decision is that by a new interpretation of the Constitution it so ties the hands of the legislative branch of the Government that without an amendment of that instrument, or unless this court at some future time should return to the old theory of the Constitution, Congress can not subject to taxation --- however great the needs or pressing the necessities of the Government --- either the invested personal property of the country --- bonds, stocks, and investments of all kinds, or the income arising from the renting of real estate, or from the yield of personal property --- except by the grossly unequal and unjust rule of apportionment among the States.

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

p. 4409

In the dissenting opinion of Justice Brown we find the following language:

It is difficult to overestimate the importance of these cases. I certainly cannot overstate the regret I feel at the disposition made of them by the court. It is never a light thing to set aside the deliberate will of the legislature, and in my opinion it should never be done, except upon the clearest proof of its conflict with the fundamental law. Respect for the Constitution will not be inspired by a narrow and technical construction which shall limit or impair the necessary powers of Congress. * * *

By resuscitating an argument that was exploded in the Hylton case and has lain practically dormant for a hundred years, it is made to do duty in nullifying not this law alone, but every similar law that is not based upon an impossible theory of apportionment. * * *

It is certainly a strange commentary upon the Constitution of the United States and upon a democratic Government that Congress has no power to lay a tax which is one of the main sources of revenue of nearly every civilized state. It is a confession of feebleness in which I find myself wholly unable to join.

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

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

Surely when the members of this high court itself thus express their dissent from the decision, members of the bar and the people should not be expected to have confidence in the decision or to believe that it correctly decides the question, and they are justified in believing and asserting that Congress has been deprived by this decision of the power to levy taxes for the support of the Government in the way and manner intended by the Constitution. Therefore, if it requires a constitutional amendment to restore to Congress this power of levying a tax upon the wealth of the country, in order that it may bear its just proportion of the burdens of government, and to restore to the people and to Congress their right to levy and collect taxes for the support of the Government in the way it had been done for a hundred years prior to this decision, I must vote for the amendment. I believe, however, that if the question was again submitted to the court, as now constituted, that the decision would be different.

STARE DECISIS.

But we are told by the gentleman from New York [Mr. PAYNE] that the court would not change the decision, but would render the same decision, because they would follow the rule of stare decisis. The court did not follow the rule of stare decisis in the Pollock case, reported in the One hundred and fifty-seventh and One hundred and fifty-eighth United States Reports, and they very frequently reverse themselves and reverse prior decisions of the court, and in many cases that might be cited this has been done.

In the case of Pollock v. Loan Co. (157 U. S., 429), the very case in which the Supreme Court first considered the income tax act of 1894, the Chief Justice, who agreed with the majority of the court in the One hundred and fifty-eighth United States Reports, and delivered the opinion of the court declaring the income tax unconstitutional, said:

While the doctrine of stare decisis is a salutary one and is to be adhered to on proper occasions, this court should not extend any decision upon a constitutional question if it is convinced that error in principle may supervene.

Also, on page 576, he declares:

If it is manifest that this court is clothed with the power and intrusted with the duty of maintaining the fundamental law of the Constitution, the discharge of that duty requires it not to extend any decision upon a constitutional question if it is convinced that error in principle may supervene.

And he quotes approvingly the cases in which the same doctrine is held, viz., Lessee of Carroll (16 Howard, 275) and The Genesee Chief (12 Howard, 443).

In this latter case the court overruled the case of The Thomas Jefferson (10 Wheat., 428). The first case, The Thomas Jefferson, had decided that the Lakes and navigable waters connecting them were not within the scope of the admiralty and maritime jurisdiction of the United States courts, but that the jurisdiction was limited to the ebb and flow of the tides, and this decision had been followed in the Eleventh Peters, 175; but in the decision in the Twelfth Howard both cases were overruled, Chief Justice Taney saying:

We are convinced that if we follow it we follow an erroneous decision into which the court fell, and the great importance of the question as it now presents itself could not be foreseen.

So that in the very Income Tax case in the One hundred and fifty-seventh United States Report the court demonstrates that the court did not adhere to the doctrine of stare decisis any more than they did in the Legal Tender cases, the Greenback cases, the Whisky License cases, and in a number of other cases that can readily be called to mind. In fact, in order to hold the act of 1894 unconstitutional, and that the tax provided for therein was a direct tax, the majority of the court were compelled to abandon and put aside the so-called "doctrine of stare decisis" and make a new rule of construction, for if the court had followed the rule of stare decisis they would have upheld the act, just as that court had for a hundred years prior thereto upheld the right of Congress to enact an income tax law without violating the Constitution.

THE DEMOCRATIC PARTY'S POSITION.

Ever since this decision in the Pollock case was rendered the Democratic party has repeatedly, in Congress and in its platforms, demanded the passage of an income-tax law, and, if necessary, the adoption of an amendment to the Constitution authorizing the levy of such a tax. In 1896 the Democratic national platform declared that ---

It was the duty of Congress to use all the constitutional power which remained after that decision, or which may come from its reversal by the court as it may be hereafter constituted, so that the burdens of taxation may be equally and impartially laid, to the end that wealth may be forced to bear its due proportion of the expense of government.

All who are familiar with the incidents of that campaign well remember how that part of the Democratic platform was assailed as an attack upon the Supreme Court of the United States; and yet the President of the United States, in his campaign for the nomination and after he was nominated, in substance made the same assertion. While discussing this subject, in a speech delivered in Ohio and in New York City during the campaign of 1908, President Taft used the following language:

I believe a federal graduated inheritance tax to be a useful means of raising government funds. It is easily and certainly collected. The incidence of taxation is heaviest on those best able to stand it,

and indirectly, while not placing undue restriction on individual effort, it would moderate the enthusiasm for the amassing of immense fortunes.

In times of great national need an income tax would be of great assistance in furnishing means to carry on the Government, and it is not free from doubt how the Supreme Court, with changed membership, would view a new income-tax law under such conditions. The court was nearly evenly divided in the last case, and during the civil war great sums were collected by an income tax without judicial interference, and it was then supposed within the federal power.

The Democratic national platform of 1908 declared that the party was in favor of an income tax and urged the submission of a constitutional amendment specifically authorizing Congress to levy a tax upon individual and corporate income, to the end that wealth may bear its proportionate share of the burdens of the Federal Government. The people were told by the Republican candidate for President and by the Republican campaign orators that this was not necessary; that they favored an income-tax law if one could be enacted that would meet the approval of the Supreme Court of the United States and be held to be constitutional.

In his speech of acceptance President Taft said:

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

And now this once criticized and despised position of the Democratic party is made one of the chief features of the Republican administration.

When it became apparent that the Democrats of the Senate would vote solidly in favor of an income-tax law and that a sufficient number of Republicans in the Senate would unite with them in such a move to insure the passage of the law, the leaders of the Republican party in the House and the Republicans of the Senate, in their confusion and dismay, consulted the President with a view of defeating the income-tax amendment proposed to the pending tariff bill and they evolved the scheme known as the "corporation-tax amendment" to the tariff bill, and this amendment to the Constitution and these two propositions were put through the Senate by the leaders of the Republican party simply as a means for defeating the income-tax amendment. Indeed it was frankly stated by those who offered this resolution and the corporation tax amendment that it was being done solely for the purpose of defeating the income-tax amendment. I do not doubt the sincerity of the President's purpose, but I think I am authorized in saying that the purpose of the chief inaugurators of both the corporation-tax and the income-tax amendment to the Constitution was not a sincere purpose and not a desire to collect taxes from the wealth of the country, but in the end to defeat any such purpose. Both make their appearance in the House in such questionable shape and form as to justify those who are in favor of an income-tax law in doubting the sincerity of those who propose it and in believing that it is a mere pretext and subterfuge.

p. 4410

The Democratic party, in 1898, during the war with Spain, and when we were passing bills for the purpose of raising revenue to carry on that war, undertook to enact an income-tax law and offered it as an amendment on the 28th of April, 1898, to the war-revenue bill, but it was voted down by the Republicans. All the Democrats voted for it and all the Republicans, with a very few exceptions, voted against it. The same effort was made in the Senate, but was not successful. Senator Morgan, of Alabama, offered an income-tax amendment, which was denounced and voted against by the Republicans of the Senate. In the campaign that followed for the election of Members of Congress, in the fall of 1898, this action on the part of the Democrats of the Senate and House was denounced in the campaign book issued by the Republican national congressional committee as being an effort on the part of the Democrats to embarrass the administration in raising revenue. And in the campaign book referred to these measures to tax corporations and incomes were denominated as Populistic and obsolete measures and were said to have been opposed by the Republicans in Congress. Now, both of these measures, which in time of war were sought to be engrafted upon a war-revenue bill and defeated by the Republican majority, in time of pro-

found peace are proposed by the Republican administration and will be put through Congress as Republican administration measures. These despised, ridiculed, and condemned Democratic measures are now to become the chief stone in the Republican arch of taxation, formulated and approved by a Republican President and adopted by a Republican Congress. The Democratic party, though out of power, has forced upon the Republican party, which is in power, the adoption of their measures and their views.

The Republican President and his advisers do not seem to be familiar with the subject of an income tax. The President, in his message of June 16, in which he recommended the passage of a resolution to submit the amendment to the States conferring power to levy a tax on incomes, says that course would be preferred to the one proposed, of reenacting a law once declared to be unconstitutional, and that to enact such a law --- that is, a law taxing incomes --- would merely put upon the statute books a law already there and never repealed. The President and his advisers seem to have overlooked the fact that the act of 1894 expired on January 1, 1900, and was no longer a living statute, and that the Dingley Act of 1897 repealed it. The President and his advisers also forgot, in recommending a tax upon all corporations and joint-stock companies, except national banks (otherwise taxed), that national banks are not now otherwise taxed --- at least not taxed in the way this bill proposes to tax other corporations, but are simply taxed upon the issue of their notes. The truth of it is that the President and the Republican leaders who advised the legislation were in such a hurry to have something done that would defeat the immediate passage of an income-tax law that they did not inform themselves as to the law of the land as it exists today. It is in their hurry and desire to perpetuate the high protective-tariff system as long as possible and to prop up this oppressive system of taxation, now tottering to its fall, that these propositions for a corporation and income tax are made to temporarily repel the assaults which are now being made upon that system and to divert the attention of the people by pretending to favor the raising of revenue from sources that are not desired by them to be reached by taxation; because if sufficient revenue can be eventually raised by this income and corporation tax from the wealth of the country, there is no question but that the people will demand that the high protective rates now existing and being continued by the legislation of the present Congress shall be reduced.

Therefore, because I believe the income tax to be the most just, equitable, and proper tax that Congress can levy, and because I desire to take from the backs of the masses of the people some of the burdens of taxation and lay it upon the pockets of those who do not now bear their just share of the burdens of government, and because in no other way am I permitted to show my approval of this method of taxation, I shall vote for the resolution; but with the fear and belief, however, that it will not receive the sanction of the legislatures of a sufficient number of States to bring about its adoption; and if this effort is not successful, then the hope and desire of the American people and of the Democratic party to have an income-tax law passed by Congress will have been defeated; and the courts of the United States --- the Supreme Court especially --- will take this action of Congress, in adopting this resolution, as their judgment that no law can now be constitutionally passed imposing an income tax; and if the legislatures of three-fourths of the States shall not ratify the proposed amendment the Congress will take that as an expression of the will of the people that they do not desire it. If this should be the result, then we shall go on our way in the future as we have for many years past, and place the burdens of taxation upon the consumption of the people and exempt from such burdens the wealth of the country. I hope I am mistaken, and that the adoption of this amendment and its presentation to the several States will so arouse the people to the justice and propriety of such a tax that they will force the legislature of the States to adopt it. But every expedient available to the organized wealth and greed of the country will be exercised to defeat it, and we know too well the efficacy of such combined effort.

As I have already stated, Mr. Speaker, I do not believe this resolution is necessary in order to tax incomes, nor am I alone in that belief. However, I shall vote for the resolution, because it is the only way in which the Republican majority will permit it to be presented to us at this session of Congress; at every other session they have not permitted its consideration. This is the only opportunity I will have by my vote to express my belief in the correctness of the principle of taxation that imposes a tax on incomes in order to compel those who are able to do so to bear a just proportion of the burdens of government, and thus in some measure relieve the masses from the burdens they bear. I have said, and have demonstrated, that I am not alone in the belief that such a resolution as this is unnecessary. After the Supreme Court rendered that most remarkable decision in 1895, in my opinion the most remarkable ever rendered by it, and one that can be less sustained than any other; one which was characterized as a public calamity by one of the justices, and by another --- one of the ablest that ever sat in that court --- as "judicial amendment to

the Constitution;" the Democratic party in 1896, as I have shown from its platform of that year, declared in favor of an income tax, and demanded that Congress should use whatever power was left to it after that decision, or that might come to the court by reason of a changed personnel, in having this decision reviewed.

That declaration in the Democratic platform of 1896 was heralded by the Republicans and by those who are opposed to the Democratic party as being an attack upon the Supreme Court. But in 1908 the Republican candidate for President, who is now the President of the United States, declared in the speech in which he accepted the nomination of the Republican party --- referring to the fact that the Democratic platform demands a constitutional amendment --- and in other speeches made during the campaign, that such an amendment was not necessary and advocated the present enactment of the income tax, and said that, in view of the changed membership of the court since the decision, it was not certain that that court would declare the law unconstitutional. Now, in order to defeat the present enactment of such a law, the President and his chief advisers insist upon this amendment to the Constitution. I shall now vote for this proposition reluctantly, because I do not believe it is necessary and because I know it has found its way into this House only because the proponents of it believe and hope the proposition, when submitted to the States, will be rejected, as in all probability it will be, by a sufficient number to defeat it.

Then the opportunity for an income tax will be gone forever, and the same old scheme of taxing the many for the benefit of the few will go merrily on.

We have been told by the gentleman from Ohio [Mr. KEIFER] that the Democratic party is in favor of an income tax in time of peace, but never in time of war. The Democratic party in 1898 in the House and in the Senate proposed to the war-revenue bill an amendment to tax the incomes of the country to aid in carrying on the war with Spain, and the Democrats in both Houses voted for it, and with but few notable exceptions the Republicans in the House and Senate voted against it. That is the record made by the Democratic party, which I have here. Not only that, but the campaign for the election of Members of Congress came on in the fall of 1898, and I hold in my hand your campaign text-book, in which you characterized the effort of the Democrats to put upon the war-revenue bill an income tax and a corporation tax as both being efforts united in by silver Republicans, Populists, and Democrats, and boasted that these measures were defeated by the Republicans. You had an opportunity in time of war to vote for this measure, but you did not do it. It does not lie in the mouths of Republicans to charge that the Democrats have only favored an income tax in time of peace; the record of the parties in Congress demonstrate the falsity of such assertion. This resolution is only here for consideration now because the present leader of the Republican party, the senior Senator from Rhode Island, and his Republican coadjutors, who really are opposed to it, conceived and inaugurated the propositions for the corporation tax and the income-tax amendment and offered them to the Senate and the country in order to defeat the passage by the Senate of an income-tax amendment to the pending tariff bill. That is the only reason it is here, under false colors and for no good purpose. [Applause.]

p. 4411

Mr. HENRY of Texas. Mr. Speaker, the proposition here pending is a joint resolution to amend the Constitution and authorize the laying and collecting of an income tax. Such amendment, when adopted, shall constitute Article XVI of the Constitution and read:

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

Amendment to the Constitution may be secured in two ways. Congress by two-thirds vote may propose them to the States, which, when ratified by three-fourths of the States by action of their respective legislatures or conventions in such States, as Congress may require in the proposal, shall be valid to all intents and purposes as a part of the Constitution. Or on the application of the legislatures of two-thirds of the States a federal constitutional convention for the purpose of amendments may be called by Congress.

In this instance Congress proposes the amendment, with a requirement that the legislatures of the several States must act upon the same, and thus excludes the method of conventions in the States. It is gratifying to me that I am now as a representative of my people able to cast my vote for this meritorious proposal. For more than twelve years it has been my privilege to consistently advocate such an amendment to the Constitution. For that many years at each recurring campaign I have pledged my constitu-

cy that this vote should be given by me, and now that the auspicious time has arrived such promise shall be fulfilled as, with exultant feelings, my name is recorded with those who advocate an income-tax amendment.

In February, 1896, my constituency were informed in a canvass before the primaries that "I advocate an income tax upon the wealth of this country. I believe it should bear its just proportion of the burdens of taxation. Congress should speedily submit an amendment to the Constitution of the United States, if necessary, authorizing the levying and collecting of an income tax, and if I should be elected a Representative I shall support such amendment and tax." In June, 1896, the Democratic convention, commissioning me to represent my party, duly selected delegates and proclaimed as a platform utterance that ---

The wealth of the country should bear its just and equal proportion of taxation, and we here declare for a properly distributed tax upon the incomes of the Nation. And we believe that the Constitution of the United States should be so amended as to insure the legality of such a law.

Heartily concurring in such a declaration, I accepted the nomination and was elected a Representative in Congress. Every two years since my constituency have received a similar pledge from me, and substantially every convention nominating me has contained likewise a declaration favoring an income tax and constitutional amendment warranting the same. Hence, with peculiar pride, I this day redeem a promise to a generous constituency so long conferring political honors upon me.

A Representative is strictly responsible to his particular constituency, and should reflect their views upon political questions; and in this instance my vote not only gives emphasis to their views, but expresses deep-seated convictions long entertained by me. Mr. Speaker, the country will not omit to note that the Republican party is now coming over to the position so long occupied by the Democratic party. For long years your party has denounced and bitterly assailed the Democracy because, forsooth, we cherished the view that swollen fortunes and incomes of the rich should bear their just tribute and pay a part of the tax burdens of the country under a properly framed income-tax law. At last the scales have dropped from your eyes; you see a great light and now rush precipitately into Democratic territory. We are glad to have you, and to prove our joy, while we know you are filching Democratic contentions, are willing with unanimous voice to join you now in submitting the proposed amendment to the States.

In the form submitted here the amendment does not precisely suit me. We are anxious to witness the adoption of the amendment in the several States, and as Democrats would use every precaution in its submission to guarantee its ratification. At the proper time I shall endeavor to amend the resolution by providing that it shall be submitted to conventions in the States in preference to the legislatures thereof. To that end, let us amend the Senate joint resolution by striking out in lines 5 and 6 the words "which when ratified by the legislatures of three-fourths of the several States" and insert "which when ratified by conventions in three-fourths of the several States." By the adoption of this changed verbiage we submit the amendment directly to the body of the people in the respective States. It goes then to their homes, their firesides, their consciences and individual judgments, and they write the verdict and select their own delegates to constitutional conventions charged with executing a public trust. This course was pursued when the original Constitution was submitted to the people in the States, and had it not been so there is much doubt as to what would have been the fate of that cherished document. As it was, even in the constitutional state conventions, it barely weathered the storm, so close was the vote on its ratification in some of them. I dread its submission to the legislatures and shudder at the outcome, so anxious am I that it shall prevail, but shall vote for it even if it cannot be amended as already suggested by me.

Let us not proceed blindly and heed not the breakers and difficulties ahead. The Senator from Rhode Island has already stated with unusual candor that the proposed corporation tax and this amendment here being considered constitute a mere subterfuge to circumvent the passage of the Bailey-Cummins income-tax amendment. He has given the country warning. And when he and those who think like him leave this capital, they will return to their homes with guns trained against the ratification of this amendment. For my part, I am for the submission and ratification of the amendment, and no hippodrome performance shall here or elsewhere characterize my conduct. In carrying forth this plan of equality in taxation, let us make sure we are lifting the unjust burdens from the shoulders of the poor and placing a proportionate share where it manifestly belongs --- on the pocketbooks of the country. [Applause on the Democratic side.] This fair result may not be accomplished by this day's work if we fail to send this amendment directly to the people in conventions. Let it not be misunderstood that not only can the legislatures of 12 States defeat the amendment but the half of the legislatures of 12 States may do so. It can be defeated in the following fashion: Each legislature has two branches of coordinate power. One branch

may favor and the other oppose the amendment by the bare majority of 1, and the amendment fails in that State. The senate in Connecticut has 35 members. Eighteen members of that body can defeat the amendment there. Rhode Island has 38 senators, and 10 can thwart the will of the people in that State and disregard the amendment. New Hampshire has 24 members in her state senate, and with 13 senators can overwhelm the amendment. And so in many States. However, leave it to the people and permit them to choose their delegates with an eye single to the adoption of this amendment and they would not dare disregard a sacred trust reposed in them by the sovereign voters. When we consider the influences dominating some legislatures, this point cannot be too emphatically stressed and heralded to the country. Aye, one-twelfth of the people may defeat the amendment under the plan here proposed. Undoubtedly a vast majority of the American voters favor an income tax and this amendment. It is not unconservative to say that 90 per cent of them would vote for it in a blanket election throughout the United States, and yet by this plan you are now adopting you place it in the power of a very small minority to throttle the voice of over 80,000,000 freemen, whose voices by untrammelled ballot would register a different edict.

I should feel recreant to my duty if I failed to point out the dangers and difficulties lurking in our pathway should we neglect to adopt my amendment and send the resolution directly to the people in convention assembled. In that event it will be the sole issue, uncomplicated with manifold interests and combinations in various legislatures. If you are sincere in this sudden conversion to an income tax, aid us in putting it in hospitable hands in the several States and not throw it in hodgepodge with every conceivable influence in many States. Are you willing to trust your constituencies? If you are, the prospect seems bright for affirmative action on this proposition. If not, and you insist upon denying the people a direct voice in this decisive moment, my forebodings are gloomy, and I fear the chances of an income-tax law are far removed. [Applause on the Democratic side.] It is a difficult matter to secure the ratification of an amendment under the most favorable auspices, and we should proceed with caution here if we wish our object attained, and not send this resolution to the States handicapped with enormous conditions. A convention will be responsible to the people's desires; a legislature in many States will but register the will of politicians and questionable interests. To illustrate the delicacy of the problem before us, we have but to recur to the history of the adoption of the Constitution of 1787. This was done in conventions of the various States. In some of the States, and especially the larger ones, the vote was exceedingly close, to wit: Virginia, 89 to 97; Massachusetts, 187 to 168; New York, 30 to 27; Rhode Island, 34 to 32. A change of 2 votes to the negative each in New York and Rhode Island would have changed the destinies of this Republic. As it was in some States, notably North Carolina and Rhode Island, remained out of the Union many months. It is rarely a wise thing to engage in prophesy, and yet I cannot refrain from reflecting that those of us spared to look back upon these scenes enacted here to-day may recognize the committal of a sad mistake in referring this measure to the legislatures and not to the voice of the voters.

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INCOME-TAX LAW and CONSTITUTIONAL AMENDMENT DEMOCRATIC DOCTRINE.

The country should and does understand that the enactment of an income-tax law and the submission of this amendment are of distinctive Democratic origin.

While the Republican party has opposed, ridiculed, and viciously assailed them, the Democracy, undaunted, has made the fight for the people. You have voted against it in this House and not until the wrath of the public has driven you have you ever advocated it. However, when you embrace so good a measure, we rejoice in joining you while another sound doctrine of the Democratic party is indorsed by the country and forced through Congress by public opinion over the unconverted consciences of some men who are voting with us on this occasion.

In 1896 the Democratic convention pronounced unequivocally for an income tax. In plain language we said:

* * * Until the money question is settled we are opposed to any agitation for further changes in our tariff laws, except such are necessary to make the deficit in revenue caused by the adverse decision of the Supreme Court on the income tax. But for this decision by the Supreme Court, there would be no deficit in the revenue under the law passed by a Democratic Congress in strict pursuance of the uniform decisions of that court for nearly one hundred years, that court having in that decision sustained constitutional objections to its enactment which had previously overruled by the

ablest judges who ever sat on that bench. We declare that it is the duty of Congress to use all the constitutional power which remains after that decision, or which may come by its reversal by the court, as it may hereafter be constituted, so that the burdens of taxation may be equally and impartially laid, to the end that wealth may bear its due proportion of the expenses of the Government.

From that day to this we have urged and pleaded for its adoption. The Republican party has scoffed at it and scorned to believe in it until lashed by public conscience. In 1908 the Democracy pronounced in favor of such law and amendment. We said:

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

Again the Republican party was a silent as the tombs of the Ptolemies. You did not favor it then, or you would have said so in your platform utterances. In season and out of season Mr. Bryan and those who followed him with unfaltering feet have never wavered in their devotion to this principle; and although defeat overtook him, he will live in history as a patriot and benefactor to mankind when those who scoffed at his imperishable name are buried beneath the dust of oblivion. In the Republican party campaign textbook for the year 1894 you issued this declaration to the people:

In this country an income tax is odious, and will bring odium upon any party blind enough to impose it. * * * Prepare for the funeral of the political party which imposes such a burden.

Evidently, then, your conversion dates subsequent to this announcement.

DESIRABILITY OF AN INCOME-TAX LAW.

We have now reached a point where an income tax seems an inevitable necessity. The appropriations of the Federal Government have become so great that the internal-revenue taxes and import duties no longer suffice. The Republican party must seek other sources of revenue. Dreading to embrace Democratic conventions as a temporary makeshift, they are proposing a so-called "corporation tax," which will be but shifted from the corporation treasuries to the backs of the people. The appropriations and the obligations of the Government for the fiscal year ending June 30, 1910, amount to the exorbitant sum of \$1,070,482,732.12. Considering postal receipts and other items that might be properly included and subtracted, this Government must raise about \$500,000,000 from customs receipts and other sources, certain items, as explained by the Secretary of the Treasury, being eliminated. The most optimistic advocate of the Payne-Aldrich bill does not contemplate, as now framed, that it will raise from customs receipts much in excess of \$350,000,000. Therefore, needing a little short of \$500,000,000 from customs receipts and otherwise to supply governmental demands, resort must be had to some source for the residue of \$150,000,000 above all the money that can possibly be brought in through the custom-houses under this Payne-Aldrich bill. Hence, we have now reached the point in our fiscal affairs when the revenues from internal-revenue laws and customs duties fail to furnish sufficient funds to run the Government. There is a shortage in that regard of more than \$150,000,000 annually. In accordance with my judgment that amount should be laid upon the incomes of the country by the enactment of a genuine income-tax law. In lieu of this some propose an inheritance tax and others a corporation tax. However, if an income-tax statute be properly drawn, it will reach, to a great extent, these sources and the three may be wisely combined in one act; the income tax embracing the corporation and inheritance tax and many other items not within their scope.

Equality in taxation should be the north star to light our pathway and direct our feet in the enactment of such statutes. No tax more equitably and wisely distributes the burdens of government than an income tax. It is resorted to in almost all civilized nations. In England the government collects a "property and income tax" amounting to £33,930,000. A little less than \$100,000,000 of this amount comes from incomes alone. In the British Empire wealth is required to shoulder its due proportion of governmental burdens. In fact, there most taxation rests upon the wealth of the Kingdom. And the following countries are among those having income-tax laws: In Prussia for more than thirty years it has been in operation. For more than that length of time Austria has tried this tax and proved it to be a success. In Italy, likewise, it has been demonstrated as a revenue measure. And so with the Netherlands. It is needless to enumerate countries embracing the doctrine, for the trend of the world is to it, and no sentiment can much longer stay it in America. If in this form it is defeated, American voters will rise up and find a way to have the

wrong righted by another Supreme Court. We should lay upon the backs of those with sufficient incomes a tax of a hundred millions of dollars. The Bailey-Cummins amendment meets my cordial approval, and if I had the power, it would speedily become a law and the Supreme Court again be given the opportunity to determine its validity. I would cheerfully vote for this amendment with the belief that the Supreme Court would sustain it and obviate the submission of a constitutional amendment. My personal preference would be for a graduated income tax. Being the least inquisitorial of all taxes and based upon sounder principles of equity than all others, such a tax would have my cheerful support. No one has ever stated the best features of such a system more felicitously than Adam Smith:

The subjects of every State ought to contribute to the support of the Government, as nearly as possible in proportion to their respective abilities --- that is in proportion to the revenue which they respectively enjoy under the protection of the State. In the observation or neglect of this maxim consists what is called the "equality or inequality of taxation."

It is undeniable that an income tax will reach millions of wealth --- bonds and stocks --- that would never be touched by a corporation or inheritance tax. It is advocating no new and strange doctrine to favor an income tax. On many occasions during great emergencies this method of taxation has been resorted to, and proved abundantly satisfactory. And now, with a depleted treasury, with swollen fortunes all around us evading taxation and receiving the protection of the Government, and civilized communities everywhere recognizing the economic fairness of such a tax, and with the admitted contention that it contains the humane and sublime blessing of equality to all men, the time is ripe and appropriate for this Government to go forward and keep apace with the progress and civilization of mankind.

SUPREME COURT DECISION ERRONEOUS, AND SHOULD BE RECONSIDERED
WITHOUT CONSTITUTIONAL AMENDMENT.

Mr. Speaker, no member of his profession has a higher regard for the dignity of the courts than I have; but I refuse to subscribe to the doctrine that "the king can do no wrong" and that the courts are infallible. In a respectful way, as a citizen and Representative, I have a right to challenge the decision of the Supreme Court in the Pollock Income tax case. If any opinion of that court ever received practically the universal disapproval of the bar and the bench of the country, it is that case. The very flower of the American bar now concur that practical unanimity that the judgment of the court was erroneous. The court itself is rapidly curtailing the force of the same and stripping it of much of its vital efficiency. It has never received the respect of the bar and country due an adjudication from that august tribunal. Consequently we are warranted in claiming the right to send another similar tax law to that court and ask that the question be reexamined and correctly decided. Such course recommends itself to me with much more force than the submission of a constitutional amendment, which might be construed as an admission by Congress that it is now without authority to pass the proposed income-tax law, which acquiescence I am not willing to give.

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It is no new thing to challenge an erroneous opinion of this high court. On other occasions they have been questioned, aye, bitterly assailed, and have in the end reversed themselves and righted their judgments. While my respect for the court is adequate, I hope my regard for righteous decision and the just demands of an overburdened, oppressed, and groaning people is equal thereto, and perhaps outweighs in that direction the partiality for that honorable court, who, after all, are but the creatures of government directed by sovereign men who fashioned this Republic. And for those people I have a right to speak in my place here. The court did not hesitate to overturn the established law of a hundred years, and why should we halt in asking them to reconsider, in the interests of more than eighty millions of people, their judgment so universally condemned by the American bar and citizenship? It is peculiarly appropriate here and now to recur to the familiar history of income-tax laws and the decisions of the Supreme Court touching them.

The first act was passed in 1794 and imposed a tax on carriages "for the conveyance of persons." Many Members of Congress who enacted the law had been delegates in the Constitutional Convention. Its validity was violently assailed upon substantially all the grounds raised in the Pollock case and by the ablest lawyers in the land. But in the Hylton case, determining the questions, the Supreme Court unanimously upheld the act. They distinctly laid down the proposition that it was not a direct tax and not subject

to apportionment under the Constitution. They undeniably held that the only taxes required to be apportioned were a capitation or poll tax and the tax on land. Although Rufus King asked in the Constitutional Convention, "What is the meaning of a direct tax?" and no one answered him, yet the delegates to that convention, the country at large, and the Supreme Court, some of them coming from the convention, did not doubt that the "direct taxes" referred to by the fathers were capitation taxes and taxes on land, and none other.

It was then the universal belief and acceptance, and of their correctness I have not the slightest doubt this day. In order to get the true proposition in our minds, we cannot do better than to quote from the great constitutional lawyer, Mr. Cooley. After maturely considering the question, he writes:

The term "direct taxes" as employed in the Constitution has a technical meaning, and embraces capitation and land taxes only.

In holding the carriage tax of 1794 constitutional and as blazing the way in jurisprudence, I cannot do better than quote from Justice Patterson, one of the four judges unanimously handing down the opinion, and assuring the bench and bar of the validity of the tax and thus setting up a landmark:

I never entertained a doubt that the principal --- I will not say the only --- objects that the framers of the Constitution contemplated as falling within the rule of apportionment were a capitation tax and a tax on land.

Thus early the people had the confidence and faith instilled in them by this great court that only two kinds of taxes fell under the apportionment clause of the Constitution --- capitation taxes and land taxes; that the others must yield to uniformity alone. Hence, for all the years to come, this court heralded to the country that duties, imposts, excises, and incomes should fall under the head of indirect taxes and be uniform. In Congress, Madison opposed this carriage tax as unconstitutional, but afterwards as President approved acts of Congress containing the identical principle. The Government began to collect money under such laws, and for a hundred years collected many millions from the people; and such sums have not been refunded and will never be returned. Thus, with such a law, a unanimous approval of the Supreme Court, and thorough executive indorsement, this Republic began its career in undoubted recognition of the principle of an income tax, and pursued its tenor for a century without a dissent from any source to the system. At the end of a century, when a divided court uproots firmly fixed jurisprudence covering all these years, we are entitled to send the great question again and again to that tribunal. Guided by previous history and such construction by the Supreme Court, Congress has several times provided for direct taxes and apportioned them according to the Constitution.

In 1798 the total amount was fixed at \$2,000,000. In 1813 the second tax fixed the sum at \$3,000,000. The third tax, in 1815, fixed it at \$6,000,000; in 1816, at \$3,000,000. Then the law of 1861 came and put it at \$20,000,000 and made it annual. By constitutional rule these taxes were duly apportioned among the States. They were upon lands, improvements, dwelling houses, and slaves in 1798, 1813, 1815, and 1816; in 1861, upon land, dwelling houses, and improvements. Analyzing and weighing these things, Chief Justice Chase said:

It follows, necessarily, that the power to tax without apportionment extends to all other objects. Taxes on other objects are included under the heads of "Taxes not direct," "Duties," "Imposts," and "Excises," and must be laid and collected by the rule of uniformity. The tax under consideration is a tax on bank circulation, and may very well be classed under the head of "Duties." Certainly it is not, in the sense of the Constitution, a direct tax. It may be said to come within the same category of taxation as the tax on incomes of insurance companies, which this court at the last term, in the case of *Pacific Insurance Company v. Soule*, held to be a direct tax.

Thus repeated acts of Congress and decisions of the Supreme Court thoroughly fixed the definition of "direct taxes" mentioned in the Constitution. Following these precedents the Supreme Court, in the *Pacific Insurance Company* case, held valid a tax "upon the business of an insurance company" as being an excise or duty authorized by the reasoning in the *Hylton* case. Still adhering to these precedents, the Supreme Court subsequently pronounced, in the *Veazie Bank* case, a tax on the circulation of state banks or national banks paying out notes of individuals or state banks as falling within the meaning of "duties" as held in the insurance case. The Chief Justice here, holding the statute valid, said:

It may further be taken as established, upon the testimony of Patterson, that the words "direct taxes," as used in the Constitution, comprehended only capitation taxes and taxes on land, and

perhaps taxes on personal property by general valuation and assessment of the various description possessed within the several States.

And proceeding with the same logic, the Supreme Court, in Scholey's case, decreed a "succession tax" to be plainly a duty or excise upon the devolution of estates or incomes thereof. Constantly adhering to their former views, the same court, in the Springer case, upheld a statute whose provisions as to incomes were the same as those of the Wilson bill of 1894. In Springer's case, he was assessed for income on professional earnings and interest on United States bonds. Declining to pay, his real estate was sold. Involving every conceivable point possible to be raised against the income-tax provision, the court held:

Our conclusions are that direct taxes, within the meaning of the Constitution, are only capitation taxes, as expressed in that instrument, and taxes on real estate; and that the tax of which the plaintiff in error complained is within the category of an excise or duty.

And so, with settled jurisprudence of a century meeting our gaze, we are brought to the spectacle of a great court suddenly halting, turning backward, and uprooting the established laws of more than three generations. Is it any wonder that the populace stood aghast and the bar was amazed? With a mighty stroke, a divided court annihilates precedent and sets up an unheard of standard of law in Pollock's case, nullifying the Wilson income-tax law. In order that it may be plainly stated here, let me recite the action of the court:

First. It held that a tax on rents or income of real estate is a direct tax within the meaning of the Constitution.

Second. That a tax upon income derived from interest of bonds issued by municipalities is a tax upon the power of the State and its instrumentalities and is invalid.

Third. The court in the original opinion did not decide the points pertaining to the provisions held void as invalidating the whole act, or that touching income from personal property being unconstitutional as laying a direct tax, or the point made as to the uniformity provided the tax was construed not to be direct. On these propositions the justices hearing the argument, being equally divided, could not decide the same. Avarice of wealth, not content with the adjudication, asked for a rehearing and begged that every vestige of the law that could possibly lay its hands upon their fortunes be destroyed. The rehearing was granted and the people thwarted with further judicial shifting. It is not amiss here to recite a short excerpt from Justice White in a dissenting opinion that will live in judicial annals when other contrary expressions are slumbering beneath the dust of forgetfulness:

It is said that a tax on the rentals is a tax on the land, as if the act here under consideration imposed an immediate tax on the rentals. This statement, I submit, is a misconception of the issue. The point involved is whether a tax on net incomes, when such income is made up by aggregating all sources of revenue and deducting repairs, insurance, losses in business, exemptions, etc., becomes to the extent to which real estate revenues may have entered into the gross income, a direct tax on the land itself. In other words, does that which reaches an income, and thereby reaches rentals indirectly, and reaches the land by a double indirection, amount to direct levy on the land itself? It seems to me the question when thus accurately stated furnishes its own negative response. Indeed I do not see how the issue can be stated precisely and logically without making it apparent on its face that the inclusion of rental from real property in income is nothing more than an indirect tax upon the land.

The rehearing was granted and the cause resubmitted. For a hundred years the avaricious and wealthy had criticized and assailed the court more violently than those challenging the first utterances in the Pollock case. By all the rules of reasoning and equity they should be estopped from criticizing us for now in this single instance challenging the action of the courts.

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With persistence, vigor, and ability the controverted points were again argued by both sides. Then it was upon final decree that the court, by a vote of 5 to 4, completely overturned all its former holdings. It concluded: First, that taxes on real estate being direct taxes, taxes on rents or income therefrom are also direct taxes. Second, that taxes on personal property or on the income therefrom are direct taxes. Third, that the act being for these reasons unconstitutional, there was not enough of the act left capable of enforcement, and hence the complete income-tax sections of the Wilson bill are necessarily invalid. So,

again, by such decree the court overruled five unanimous opinions on the question and totally overturned the jurisprudence of all generations from the beginning of the Government. Perhaps the most important case abrogated by the Pollock decision was the Springer case. It is not inappropriate here to allude somewhat briefly to that case in order to demonstrate how sharp was the departure from previous rulings. In the Springer case the contest was as to the validity of the act of 1864 as amended in 1865. In this act there was levied a duty on profits, gains, and incomes derived from every kind of property, trade, profession, and employment. Mr. Springer alleged that the tax was direct and could not be laid except under the rule of apportionment among the States according to numbers. Here the question was presented squarely to the court and a clear-cut judgment rendered sustaining the constitutionality of the tax. In another unanimous opinion Mr. Justice Swayne, speaking for the court, said:

This uniform, practical construction of the Constitution touching so important a point, through so long a period, by the legislative and executive departments of the Government, though not conclusive, is a consideration of great weight.

And proceeding with one more great authority, Chancellor Kent said:

Our conclusions are that direct taxes, within the meaning of the Constitution, are only capitation taxes, as expressed in that instrument, and taxes on real estate, and that the tax of which the plaintiff in error complains is within the category of an excise or duty.

On the warrant of such laws wars have been fought, millions of money raised by taxation of incomes from every kind of real and personal property without apportionment according to numbers, and now this Pollock case holds all these things done in flagrant violation of the Constitution and law of the land. Then is it any wonder that many gave some evidence of mistrust and discord? It has been suggested that the way is now open to another income-tax law, if we but invoke the apportionment clause of the Constitution and let the tax rest according to numbers. This plan would not for one moment be tolerated. Its most grievous fault would be that it favors a few in certain States, to the detriment of the many, and would be a gross discrimination. Antagonism to it would be instantly aroused, and it will never find favor in the slightest degree. Therefore, the decision, in effect, puts the dollar of the millionaire beyond the pale of being equitably taxed according to his wealth, unless a constitutional amendment be invoked. And here let me remark, with all the emphasis at my command, that I would not do violence to the rich to favor the poor. Equal laws and exact justice to both shall be my constant watchword. No man despises class legislation more than I do, and in my opinion he is a dangerous citizen who would seek to arouse one class of men against another in our country. However, there should be some method by which the untold wealth and riches of this Republic may be compelled to bear their just burdens of government and contribute an equitable share of their incomes to supply the Treasury with needed taxes. Returning to the glaring inequalities that are apparent if resort be had to an income tax under the apportionment clause of the Constitution, I cannot better illustrate the point than by quoting the language used by Justice Harlan. He suggested:

Under that system the people of a State containing 1,000,000 inhabitants, who receive annually \$20,000,000 of income from real and personal property, would pay no more than would be exacted from the people of another State having the same number of inhabitants, but who receive income from the same kind of property of only \$5,000,000.

Hence, I do not hesitate to say that by this decision the Supreme Court yielded the taxing power of the Government to wealth of the country and the moneyed class in a few States.

As I see it, the fairest of all taxes is of this nature, laid according to wealth, and its universal adoption would be a benign blessing to mankind. The door is here shut against it, and the people must continue to groan beneath the burdens of tariff taxes and robbery under the guise of law. If my vote could determine the question here to-day, I would boldly challenge the Supreme Court to a correct decision and reversal of their views by instantly sending the same law before them for readjudication. And not till this course was exhausted and failed would I propose this amendment. But being powerless to make effective such alternative, as the only available avenue open to me, I shall promptly respond affirmatively when the vote is taken on this resolution.

THE DEMOCRATIC PLATFORM AND THE TARIFF.

It is not my purpose here to enter into an extended discussion of the tariff, but at some future day in this session, if sufficient opportunity offers, I shall give in detail some views touching the general principles of the subject and vicious schedules of the bill.

Having on another occasion announced my allegiance to the Denver Democratic platform, I now here reassert my loyalty to its declarations. And let it here be fully understood that no planks appear to me more favorably than those unequivocally declaring for an income-tax law and constitutional amendment to that effect and the tariff pledges. Amongst all its mandates there are none to which I yield more faithful obedience than those. When the convention avowed: "Articles entering into competition with trust-controlled products should be placed upon the free list," it promulgated a wise, Democratic, and patriotic doctrine. They should reappear in every Democratic platform until their righteousness is vindicated by the enactment of such a law. Hence my convictions are unswerving and my pathway clear. And to me it is certain that I can better serve my State, my party, and country by yielding strict adherence to every decree of the Denver Democratic platform, and with unflinching fidelity this spirit shall characterize my course here and elsewhere.

Mr. LONGWORTH. Mr. Speaker, I yield five minutes to the gentleman from Missouri [Mr. BARTHOLDT].

Mr. BARTHOLDT. Mr. Speaker, the gentleman from Georgia [Mr. BARTLETT] in his remarks said a little while ago that in the previous Congresses all the Republicans voted against an income tax and all the Democrats in favor of it.

Mr. BARTLETT of Georgia. If the gentleman will permit, the gentleman did not quote that right. I said with few exceptions all Republicans voted against it.

Mr. BARTHOLDT. I am glad the gentleman from Georgia makes exceptions, because I am one of the exceptions.

Mr. BARTLETT of Georgia. I knew that at the time, and would not have made that statement, because I have the vote before me and knew there were some of them who did.

Mr. BARTHOLDT. I can not resist the temptation, Mr. Speaker, to congratulate my party upon having come over to my view of this subject. [Applause on the Democratic side.] I want to say, however, as one who is somewhat familiar with the prevailing sentiment at the time, that the Republicans of the Fifty-third Congress did not oppose an income tax because they were opposed to the principle of it, but for the reason that they deemed such a tax unnecessary at that time. Of course that was when the Democracy had just come into power with flying colors and had elected a President for the first time in many years. Their feeling was that the custom-houses should be forthwith abolished, and necessarily they had to look around for some sources of revenue other than customs, and one of those was the income tax. At that time, Mr. Speaker, we had not yet become the greatest military power on earth, and when I say "the greatest military power" I mean we had not yet become the power which spends more of its revenues for military purposes than any other nation on earth. It had not yet come to pass that only 28 per cent of the revenues of the Government were spent for the legitimate functions of the Government, while 72 per cent were expended for war, as is the case now, according to the statement recently made in Chicago by the gentleman from Minnesota, the chairman of the Committee on Appropriations. It is quite natural that when we are spending 72 per cent of our revenues for war that other sources of revenue should be looked for.

Mr. HOBSON. Will the gentleman yield?

Mr. BARTHOLDT. In a moment I will yield to the gentleman from Alabama. I merely want to submit a thought in connection with this discussion, and that is this, that I am opposed to all exemptions, not only to an exemption of \$5,000, or \$7,500 or \$10,000, but I am opposed to all exemptions. I believe in equality of taxation. I believe that every exemption you make will be un-Democratic, un-Republican, and un-American, because you will thereby create two classes, a taxpaying class and a nontaxpaying class, namely, all those whose income is below \$5,000 will be exempted from that direct tax and consequently will be classed as nontaxpaying citizens.

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. LONGWORTH. I yield the gentleman two minutes additional.

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Mr. BARTHOLDT. I would tax an income of \$100, say, at 1 per cent, making the laboring man with an income of \$100 pay 1 cent to the Government and the laboring man having an income of \$1,000 pay 10

cents to the Government. This 10 cents represents to him as much as the thousands and thousands of dollars which the millionaire contributes to the Government, and no one can say to him that he has not the same rights, because he is a taxpayer, in accordance with his means, as well as the millionaire.

Mr. CLARK of Missouri. The gentleman got his arithmetic wrong. One per cent on \$100 is \$1, not 1 cent.

Mr. BARTHOLDT. Let him pay one-tenth of 1 per cent; make it as low as possible and graduate it up higher and higher. Do not exempt him altogether, because, as I said before, that would be un-Democratic and un-American. I now yield to the gentleman from Alabama.

Mr. HOBSON. I merely wish to ask the gentleman if in making his statement concerning the percentage of revenues expended on war he included the amount expended on pensions, amounting now to something like \$170,000,000 a year?

Mr. BARTHOLDT. I want to say that if I were computing statistics of this kind I would exempt pensions always; but I was merely citing figures as given by the chairman of the Committee on Appropriations in a recent speech of his.

Mr. HOBSON. Then I will state to the gentleman that the chairman of the Committee on Appropriations included the pensions.

Mr. BARTHOLDT. He included pensions; yes, sir. [Applause.]

Mr. CLARK of Missouri. Mr. Speaker, I yield five minutes to the gentleman from Mississippi [Mr. BYRD].

Mr. BYRD. Mr. Speaker, it is useless for me to say that I favor this proposition. No Democrat can consistently vote against this amendment. While many of us believe that under the present provisions of the Constitution there is abundant authority for the passage of an income-tax law, yet we shall not hesitate to vote for this amendment as the only thing along this line we are permitted by the party in power to consider. The Supreme Court, it is true, held that the Wilson income-tax law was unconstitutional. But we all remember the influences surrounding that tribunal at that time, and the fact that it was rendered by a majority of only one judge, who changed his opinion in a few hours. In this manner a judicial construction of the Constitution that had existed since the days of Chief Justice Marshall was reversed.

Many of the best lawyers in the country are outspoken in their belief in the error of that decision. President Roosevelt evidently had but little respect for it, as is shown in his message to Congress just read by the gentleman from Kentucky [Mr. JAMES]. Also, President Taft must have regarded it with contempt at one time, for in his speech accepting the Republican nomination for President in 1908 he said:

The Democratic platform demands two constitutional amendments, one providing for an income tax and the other for the election of Senators by the people. In my judgment, an amendment to the Constitution for an income tax is not necessary.

I believe that an income tax, when the protective system of customs and the internal-revenue tax shall not furnish income enough for governmental needs, can and should be devised, which, under the decisions of the Supreme Court, will conform to the Constitution.

Mr. Speaker, how does the language that "In my judgment, an amendment to the Constitution for an income tax is not necessary," and that "an income tax can and should be devised, which, under the decisions of the Supreme Court, will conform to the Constitution" compare with his recent message to the Senate advocating the substitution of a tax on corporations for the proposed income and inheritance tax measure, then pending in that body? Before his election, the income-tax law would be constitutional. Now it is unconstitutional. What has brought about that sudden change in the mind of this great lawyer? Can it be that he has been "hoodooed" by the machinations of the grand high priest of Republicanism now engaged in writing the tariff bill?

But, Mr. Speaker, this is not the only "before-and-after-taking" performance of the President. In his campaign speeches he proclaimed from every stump in every section of the country that if he were elected, there would be a revision, and a revision downward, of the tariff. The people believed him to be honest then, and they do not seriously question his honesty now, but they do believe that he is guilty of cringing cowardice in permitting certain leaders of his party to belie every promise he made the people. How anxiously are millions of our Republican friends wishing for the return of the "big stick" now being used in clubbing varmints in the wilds of Africa. They believe that if this hero of the jungle were again in power, the Samson of the Senate would be shorn of his locks.

Let me here read you a few utterances made by Mr. Taft in his last campaign.

In a speech at Cincinnati on September 28, 1908, he said:

Another thing the Republican party pledges itself to, fixes the date when it will do it, and tells you how it will do it, is the revision of the tariff.

The Dingley tariff has served the country well, but its rates have become generally excessive. They have become excessive because conditions have changed since its passage in 1896. Some of the rates are probably too low, due also to the change of conditions.

But, on the whole, the tariff ought to be lowered in accordance with the Republican principles and the policy it has always upheld of protection of our industries.

Now, Mr. Bryan is greatly concerned, and says that no such tariff revision can be made, in view of the fact that at the protective industries control the Republican party. I deny this. If there are protective industries enjoying too great profits under the present tariff, then they would have opposed revision altogether.

The movement in favor of revision has arisen with the Republican party and is pressed forward by members of the Republican party.

The revision which they desire is a revision which shall reduce excessive rates.

I wish there to be no doubt in respect to the revision of the tariff. I am a tariff revisionist and have been one since the question has been mooted.

At Milwaukee on September 25, 1908, he said:

The encouragement which industry receives leads to the investment of capital in it, to the training of labor, to the exercise of the inventive faculty, of which the American has so much, and in practically every case in which adequate protection has been given, the price of the article has fallen, the difference in the cost of producing the article abroad and here has been reduced, and the necessity for maintaining the tariff at the former rate has ceased.

It is intended under the protective system, by judicious encouragement to build up industries as the natural conditions of the country justify to a point where they can stand alone and fight their own battles in competition of the world.

It is my judgment, as it is that of many Republicans, that there are many schedules of the tariff in which the rates are excessive, and there are a few in which the rates are not sufficient to fill the measure of conservative protection.

It is my judgment that a revision of the tariff in accordance with the pledge of the Republican platform will be, on the whole, a revision downward, though there will probably be a few exceptions in this regard.

Also, in his inaugural address on March 4 last, which we all heard, he said:

A matter of most pressing importance is the revision of the tariff. In accordance with the promises of the platform upon which I was elected, I shall call Congress into extra session to meet on the 15th day of March, in order that consideration may be at once given to a bill revising the Dingley Act.

The proposal to revise the tariff, made in such an authoritative way as to lead the business community to count upon it, necessarily halts all those branches of business directly affected; and as these are most important it disturbs the whole business of the country.

It is imperatively necessary, therefore, that a tariff bill be drawn in good faith in accordance with promises made before the election by the party in power, and as promptly passed as due consideration will permit.

Mr. Speaker, the eyes of the Nation are turned upon this Capitol and the question of the hour is whether the solemn pledges made the people by President Taft are to be redeemed by the defeat and overthrow of the infamous Aldrich-Smoot tariff bill. It is up to the President alone to act. His party in both Houses, it seems, is under the domination of the Speaker and one Senator. The lay Members are as powerless as babes in the hands of these astute leaders. In one breath these emasculated Republicans will advocate a decrease of taxation and in the next they are forced by the bosses to vote for an increase. If all the Republicans who have denounced the Aldrich bill as a travesty upon justice and right would unite with the minority, I dare say the conference report would not receive one-third the votes of the House.

It is a well-known fact that the tariff law will be the product of the brain of one Senator, and however infamous the measure may be, it will receive the unqualified support of enough Republicans to pass both Houses. The 10 patriotic Republican Senators who dared to vote against the bill are branded as traitors, and in due time will be excommunicated by the moguls of the party.

But, Mr. Speaker, will there ever be an end to this outrageous legislation? Will the time never come when the people of the United States are to have a voice in formulating the laws by which they are to be taxed? It seems that the Republican party has permanent control of the Government, and that Senator ALDRICH absolutely dominates this party. As long as it triumphs, he will be czar of the Nation. Compared with his influence and power in the enactment of legislation, the influence and prerogatives of the President are as fruitless and abortive as would be the edicts of a country schoolmaster.

But, returning to the subject of this controversy, let me say to my friend from St. Louis [Mr. BARTHOLDT], who contends that he is opposed to a system of taxation that exempts small incomes and not larger ones from the tax burden, because it would be inequality in the system of taxation, that I am indeed glad that he is beginning to realize that there is such a virtue as equity in bearing the burdens of government. He is certainly reforming in his older age, for it is quite impossible to understand how one who has been wedded to the discriminating doctrine of protection for so many years can conscientiously advocate a policy of justice and equality in taxation, except upon the idea of a complete conversion to a new political faith. His soul must have been cleansed by the saving grace of that justice not found in the doctrine of protection. Its very name means inequality of tax burden. It means a tax upon consumption and not upon wealth, upon what one eats and wears and not upon his property; it means that the citizen who can scarcely provide food and raiment for his wife and children contributes as much or more to the support of the Government as does the multimillionaire, and it means that the consumer is not only taxed for the support of his country, but is compelled to contribute five times more to swell the fortunes of millionaire manufacturers and trust manipulators.

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Well, does my friend know that every time a dollar tax is voted upon any article imported into this country that the domestic producer of such article adds the same as an extra profit on his product? This was once denied by the advocates of protection, but it was conceded by the most stalwart Republican Senators in the recent great tariff debate. I would like for him to tell the country wherein is to be found equality of taxation under such a system. One man is not only taxed for the support of the Government, but for the benefit of his fellow-man. While he pays \$1 to the Government, he is compelled to pay from five to seven times this amount to his neighbor who is engaged in a manufacturing enterprise. For instance, the American farmer consumes \$25,000,000 worth of agricultural implements annually. The tax thereon is 20 per cent. The Government in 1907 collected only \$3,600 in revenue, but according to admissions of Republican Senators the 20 per cent Dingley rate was levied in favor of the manufacturer on the \$25,000,000 consumed at home, amounting to a tax of \$5,000,000. So the American farmer, while he paid \$3,600 to his Government, was compelled to donate \$5,000,000 to the agricultural implement trust. [Applause.]

Another illustration: Only 3 per cent of the lumber consumed in this country is imported. From that the Government derived a revenue of about \$3,000,000, while on the 97 per cent of the domestic product consumed at home he was compelled to pay the lumber trust and the lumber manufacturers more than \$65,000,000. Now, how does this strike the gentleman as equality in sharing the burdens of government? This same injustice is true on the iron, steel, wire, glass, shoe, leather, meat products, hosiery, clothing, gloves, cotton goods, and many other articles necessary to human life. Were I a Republican and advocated such a fallacy as equality of right under the protective system my hours would be haunted by visions of the judgment that overtook Ananias and Sapphira. [Applause.]

Again, Mr. Speaker, I would like to say a word or two in reply to what the gentleman from Kansas [Mr. MILLER] has just said in his speech advocating the adoption of this measure. He, for the first time in his whole political life, urges the South and the West to unite in the adoption of this measure to thwart the aggressive vandalism of New England. I am, too, proud of his conversion, and when I think of such a speech coming from a Republican from Kansas I am forcibly reminded of the old camp meeting song, "As long as the lamp holds out to burn the vilest sinner may return."

These strange doings on the part of our Republican friends, if sincere, certainly are ominous of much good. When a Kansas Republican is willing to clasp hands with a Mississippi Democrat for the good of the common country, I think it is time for the people to rejoice and offer praises to the Almighty. My friend need not be uneasy about Mississippi or any of the other Southern States on this proposition. I dare say that no State south of the Mason and Dixon line will hesitate for one moment to ratify this amendment. It is right in principle; it means equality in taxation --- that every man shall contribute to the support of the

country in proportion to the wealth with which he has been blessed. This has always been the paramount doctrine of the South, and even the southern Republicans who understand only the A B C's of political honesty will accept and support this amendment. My friend should look out for the wayward in his own State, for I have always understood that the Republicans of Kansas were the most ubiquitous in principle of all the tribe --- always fleeing from one wrong to embrace another.

Mr. Speaker, in my opinion, the greatest danger confronting Democratic success in the next election is the political thievery of the Republicans in appropriating wholesome Democratic doctrine. A few years ago you purloined the Democratic idea of more rigid supervision of transportation companies, and now with unblushing audacity you propose to adopt et literatim the most sacred tenet of our faith. You have denounced Bryan in season and out of season, in this House and upon the hustings, as a dreamer, a Socialist, and an anarchist for advocating the policy you now embrace with impunity. He wrote in the Denver platform this remarkable language:

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

You are compelled, in order to save your political scalps, to make his favorite theory the law. It is, indeed, a bitter pill, but you know that something must be done to assuage the increasing wrath of the people on account of the grievous wrong that is now being perpetrated by the tariff conference committee.

But, Mr. Speaker, I am afraid that the unanimous passage of this measure through the Senate and the favor with which it is being received in this House by your party is too hopeful of good to be accepted with a full measure of confidence. I am afraid that this is a case of "Greeks bearing gifts." It was introduced in the Senate for the a vowed purpose of defeating the Bailey-Cummins income-tax bill, and I am apprehensive that after it shall have been rushed through this House and goes to the States for ratification all the power and influence that can be marshaled against it by sordid wealth and Republican chicanery will be used to compass its defeat. It is only necessary to debauch the legislatures of 12 States to secure its rejection, and the same evil influences that have corrupted and carried so many elections have already started a crusade against its adoption by the States.

We were warned by the gentleman from Connecticut [Mr. HILL], in his speech a few moments ago, what opposition might be expected from New England. He boldly contends that it is unjust to tax the wealth of those favored States for the support of the common country, stating that that section, because of its great prosperity, was now compelled to contribute more than its part of the internal-revenue tax. The inconsistency of such an argument is only excelled by the seeming avarice that prompted it. New England, that has bled the country of its wealth for quite half a century; that has her millionaires by the thousands --- made so by virtue of the infamous policy of protection --- should be the last section of the Union to reject this righteous measure. With her millions invested in manufactures, protected by the tax of from 50 to more than 100 per cent, it would be the height of political ingratitude for any statesmen from that section, whether Democrat or Republican, to act otherwise than to urge a speedy ratification of this amendment.

Let me ask my friend where he imbibed such strange ideas of political economy as to contend that taxation should not be based on the wealth of the country? What statesman ever advocated that a poor man without property should contribute as much to defray the expenses of the Government as does the millionaire? The former has nothing to protect save his life and liberty, while not only the life and liberty of the latter is shielded by the Government, but his broad acres and long lines of factories are made secure by the courts and great armies. The former costs the Government nothing, while upon the latter it oftentimes spends thousands of dollars. In the time of war, the former bares his breast as a target to the enemy, while the latter hires a substitute and hikes away to the mountains of Switzerland.

But, Mr. Speaker, the boldest declaration in opposition to the income tax yet heard comes from the distinguished gentleman from Massachusetts [Mr. McCALL]. It is indeed hard to understand how a statesman possessing his known intellectuality could advocate such a political principle as to oppose this measure upon the grounds that it is violative of the principles upon which the Government was founded. He discussed at length the proposition that the fathers of the Republic, to make secure Democratic equality among the States, intended that when a direct tax was levied, it should be apportioned among the several States according to their population. This doctrine might have appealed to reason at a time when the pro rata wealth of the States was practically equal. Had the framers of the Constitution known that the

present policy of spoliation and greed would have been so long saddled upon the country, that one State would have been drained of its wealth to enrich another, I dare say that no such provision would have been in the Federal Constitution. Can anyone believe for a moment that when our patriotic forefathers founded this Republic they thought that the time would ever come when, by a system of unjust taxation, the per capita wealth of Massachusetts would be increased to more than \$1,500, while that of Mississippi would be reduced to less than \$150, or that they intended that the individual owning \$150 should be forced to contribute us much to the support of the Government as one owning \$1,500? In the light of these facts, anyone who now advocates a direct tax levied on the several States according to the population thereof exemplifies a statesmanship as tyrannical as it is indefensible.

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Sir, there is another reason why this direct system of taxation by States should and must be forever abandoned. When the Constitution was adopted our vast negro population was in slavery and was not counted as a basis upon which this tax should be levied in any State. Now, there are more than six millions of them in the Gulf States alone made citizens by the Constitution and who, however penniless they may be, must be counted in estimating the population of any State against which a direct tax is sought to be levied. Such a system of taxation would force the white property owners of the South to contribute ten times as much as those living in other sections of the Union. We should remember that since the adoption of the Constitution many changes have taken place in this republic. This system of taxation was adopted to make steadfast the doctrine of state sovereignty. But the integrity of statehood was partly destroyed by the results of the civil war, and now it has been completely annihilated by Republican executive and judicial encroachment upon the Constitution. At one time the Union existed by the grace of the States. The States were the source of all power, but now they have been reduced to mere boroughs in the great federal system.

Sir, if your party will give back to the South the constitutional privileges she enjoyed fifty years ago, and I do not mean African slavery either; if you will give her the right to administer her own affairs unhampered and unmolested by the usurpations of the Federal Government; if you will give her back that system of tariff taxation under which she grew rich and powerful, I dare say that but few statesmen from the South would oppose the present constitutional provisions as to direct taxation. [Applause]

Mr. Speaker, however much I may favor this measure and however much I may advocate the corporation tax now pending in the conference committee, still I must confess that I am at a loss to know how either measure is going to profit the great masses of people in this country, unless the tax burden imposed by the tariff is decreased in proportion to the amount of revenue derived by the income and corporation taxes. My idea of an income tax has always been that its adoption would relieve the necessity for high tariff taxes, and unless it accomplishes this purpose, in my judgment, but little can or will come to the masses of the people. If the rich are to be taxed by these measures to run the government, and the poor are to be taxed by high protection to enrich the manufacturers and trusts, then, in the name of reason, what good can you expect from this legislation? The income tax is right, and it is the only fair means to raise revenue to run the Government, and, when it is adopted, it is to be hoped that the American people will rise in rebellion against your infamous protective system, which is designed for no other purpose than to enrich the rich. The proposed tariff measure is the limit of high protection, and yet you say that it will not produce sufficient revenue for the Government. In this contention you are correct, and the reason for it is as plain as the noonday sun. You have taxed everything out of the country by high schedules. Scarcely anything is imported, and hence the Government gets nothing, while the manufacturer puts the full amount of the tax in his private purse. It is conceded by the best authority on this subject that if you will reduce your tariff schedules one-half, the Government will receive twice the revenue therefrom, and the people will be relieved of a tax burden for the benefit of the manufacturers and trusts to the extent of not less than \$7,000,000,000.

Then, Mr. Speaker, there is another thought. The reckless extravagance in the appropriations under the Republican rule is appalling to the nation. In the last decade it has almost doubled, amounting to quite a billion dollars annually. By your reckless extravagance you have increased the burden of taxation so greatly that your most experienced financiers in this House are at a loss to devise ways and means for the maintenance of the Government. You are levying the highest tariff tax known in the world. The corporation tax and the income tax, if adopted, together with the increase of the internal-revenue tax, will, in

the judgment of many of your own party, be necessary to meet the growing expenses of the Government. It is already noised in the atmosphere that two or three hundred millions of dollars of Panama bonds will have to be sold to fill the empty coffers of the Government.

Mr. Speaker, when your party took control of this Government it took less than \$100,000,000 to defray the annual expenses. From official statistics we learn that in 1860 there was appropriated \$71,718,943. In 1880 it was increased to \$298,163,117. In 1900 it amounted to \$590,068,371; in 1907, \$762,488,752. And it continued to increase, it now being a billion dollars or more. These startling figures unfold the story of your reckless extravagance.

Now, sir, is it not time for the people to become alarmed? Is it not time for your party to be dethroned and for the party of the people to take charge of the Government, in order to save it from the maelstrom of bankruptcy and ruin? Another decade of power by the Republican party means the indissoluble union between the Government and the trusts. It means that centralized wealth will subordinate every function of the Government to the behests of avarice. This is a plainly written upon the destiny of this country, unless there be a radical change, as was the handwriting upon the wall of a Babylonian palace. Onward we are rushing to a national crisis. The same evil winds that wafted the shipwrecked republics of the past are fast swelling our sails. [Applause.]

The SPEAKER. The gentleman's time has expired.

Mr. LONGWORTH. Mr. Speaker, I ask the gentlemen from Missouri to consume some more of his time. How much more time is there remaining, I would have to ask?

The SPEAKER pro tempore. The gentleman from Missouri has fifty minutes and the gentleman from Ohio has twenty-seven minutes.

Mr. LONGWORTH. I ask the gentleman from Missouri to consume some of his time, as he has a large amount remaining.

Mr. CLARK of Missouri. I ask leave for everybody in the House to extend their remarks for ten days upon this subject.

The SPEAKER pro tempore. Is there objection to the request? Does the gentleman mean ten legislative days or ten calendar days?

Mr. CLARK of Missouri. Ten calendar days, and that will get it through quicker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. OLMSTED. I would like the request to be made so that I may have permission to print remarks in the RECORD not directly bearing on this bill.

Mr. MICHAEL E. DRISCOLL. I make the same request.

The SPEAKER pro tempore. The request of the gentleman from Missouri is that the time for extension shall be ten calendar days, the remarks confined to the subject of the resolution before the House.

Mr. OLMSTED. Has the consent already been given?

The SPEAKER pro tempore. The Chair is not informed. Is there objection to the request of the gentleman from Missouri for general leave to print for ten calendar days on this subject?

Mr. OLMSTED. I understand, so far as I am concerned, I need not be confined to this subject.

The SPEAKER pro tempore. Is there objection? [After a pause.] I hear none, and it so ordered.

Mr. CLARK of Missouri. I yield five minutes to the gentleman from New York [Mr. SULZER].

Mr. LIVINGSTON. Mr. Speaker, before the gentleman begins, I ask unanimous consent that the gentleman from Pennsylvania [Mr. OLMSTED] be permitted to print such remarks in the RECORD as he choose for ten days, and the gentleman from New York [Mr. MICHAEL E. DRISCOLL] have the same permission.

Mr. CLARK of Missouri. Why, certainly; I thought that was included.

Mr. LIVINGSTON. No, it was not included.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. SULZER. Mr. Speaker, I am now, always have been, and always will be in favor of an income tax, because, in my opinion, an income tax is the fairest, the most just, the most honest, the most democratic, and the most equitable tax ever devised by the genius of statesmanship. Ever since I came to Congress the record will show that I have been the constant advocate of an income tax along constitutional lines. And so to-day I reiterate that through it only, and by its agency alone, will it ever be possible for the Government to be able to make idle wealth pay its just share of the ever-increasing burdens of taxation.

At the present time nearly all the taxes raised for the support of the Government are levied on consumption --- on what the people need to eat and to wear and to live; on the necessities of life; and the

consequence is that the poor man, indirectly, but surely in the end, pays practically as much to support the Government as the rich man --- regardless of the difference of incomes. This system of tariff tax on consumption, by which the consumers are saddled with all the burdens of Government, is an unjust system of taxation, and the only way to remedy the injustice and destroy the inequality is by a graduated income tax that will make idle wealth as well as honest toil pay its just share of the taxes needed to administer the national Government. Hence I shall vote for the pending resolution or any proposition that; in my judgment, will make an income tax in this country possible and constitutional, however remote that possibility may be.

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Let me say, gentlemen, that every great thinker, every honest jurist, and every great writer on political economy, from the days of Aristotle down to the present time, has advocated and justified the imposition of an income tax for the support of government as the most honest and the most expeditious and the most equitable principle of taxation that can be devised. It must come in this country. It should have been adopted long ago. Almost every great government on earth secures a large part of its revenue from an income tax, and we must do the same. We are far behind the governments of Europe in this respect --- far behind enlightened public opinion.

Sir, let me say, however, that I am not deceived by the unanimity in which this resolution is now being rushed through the Congress by the Republicans, its eleventh-hour friends. I can see through their scheme. I know they never expect to see this resolution become a part of the Constitution. It is offered now to placate the people. The ulterior purpose of many of these Republicans is to prevent this resolution from ever being ratified by three-fourths of the legislatures of the States, necessary for its final adoption, and thus nullify it most effectually. Therefore, so far as I am personally concerned, I am not going into ecstasies on account of the practically unanimous passage of this joint resolution through Congress. I have been here long enough to know, and I am wise enough to believe, that its passage now is only a sop to the people by the Republicans, and that their ulterior purpose is to defeat it in the Republican state legislatures.

I am not going to give the Republicans credit for good faith in passing this resolution until I see how their representatives vote on it in the legislatures of Republican States. Mark what I say now. When this resolution passes, the wealth and the interests and the Republican leaders of the country opposed to an income tax will soon get together and urge its rejection by the States. If these obnoxious interests to the welfare of the people can get 12 state legislatures to prevent its ratification, the resolution will fail to secure the necessary approval of three-fourths of the States of the Union and will never be adopted as part of the Constitution. It will not be required even to defeat it in the legislatures of 12 States. All that will be necessary to be done is to prevent its being acted upon by the senates of the 12 States. Let us wait and see if my prediction comes true.

Mr. Speaker, I had indulged the hope that the Members of this Congress would meet the expectations of the people ---- revise the tariff downward --- take advantage of this splendid opportunity and write into the pending tariff legislation a graduated income-tax provision that would be fair and just to all the people and absolutely constitutional; that would make wealth as well as toil, plutocracy as well as poverty, pay its just share of the burdens of Government. There is no doubt it could be done if the Republicans in Congress were true to their promises to the people. In my opinion the Republicans in this Congress have been recreant to their duty and faithless to their pledges in failing to write into the pending tariff legislation a constitutional provision for a graduated income tax. The people of the land witness here to-day, in the enactment of the iniquitous Aldrich tariff bill, the most shameless betrayal of their rights, the most shameful repudiation of Republican promises that has ever been exhibited in all the annals of our political history.

The passing of the outrageous Aldrich tariff bill, an oppressive tax measure that will fasten on the backs of the consumers of the country for years to come unspeakable burdens beyond the calculation of the finite mind, is the legislative tax iniquity of the century.

Sir, the passage of this resolution is, as I say, only a subterfuge --- a mere hope to be speedily dashed to the ground. The Republicans are only pretending to give the people the future possibility of an income tax. They know the people are in favor of a graduated income tax; they know the people now demand it; and hence they hold out this mere pretense while they place upon the statute books the highest protec-

tive tariff tax law in the history of the land to burden them more than they have ever been burdened before; and the Aldrich tariff bill as it will finally go upon the statute books --- mark what I say --- will be the highest protective-tax measure in the interests of the beneficiaries of protection that has ever been enacted in this country or any other civilized country in all the history of the world. [Loud applause on the Democratic side.]

The SPEAKER. The time of the gentleman from New York has expired.

Mr. SULZER. Well, Mr. Speaker, that is about all I set out to say. Of course I shall vote for this resolution. It will pass Congress by the requisite two-thirds vote. It then goes to the legislatures of the States. Three-fourths of the state legislatures must ratify it. Let the people of the country see to it and instruct their state representatives to vote for it. The issue is now with them. I will do my part in Congress and out of Congress to make this resolution for a constitutional income tax a part of the organic law of the land.

Mr. CLARK of Missouri. I yield two minutes to the gentleman from Colorado [Mr. MARTIN].

Mr. MARTIN of Colorado. Mr. Speaker, I ask recognition for the purpose of obtaining leave to print in the RECORD a letter to me from a former brilliant Member of Congress from my State, Hon. Lafe Pence, of Colorado, briefly and concisely setting forth his views upon the pending income-tax amendment.

The SPEAKER pro -tempore. The gentleman already has that leave.

Mr. MARTIN of Colorado. I yield back the balance of my time.

The letter referred to is as follows:

THE NEW DENISON HOTEL COMPANY,
Indianapolis, June 29, 1909.

Hon. John A. Martin

House of Representatives, Washington, D. C.

MY DEAR MARTIN: "God moves in a mysterious way, His wonders to perform."

The most important national campaign in fifty years will be on us in 1910. The fight for the income tax will be carried into every one of the 46 States for the election of state legislatures. It will continue until the fight is won; no man can tell how many years that will be.

When the Democratic party took up the fight for the income tax its sincerity was doubted. When such Democrats in Congress as Bryan, Hall, McMillin, CHAMP CLARK, Crisp, Swanson, and others succeeded in having the Democratic party in Virginia declare for a graduated income tax and avowed their intention of having it carried into national campaigns, their sincerity and ability were doubted. I was one of the doubters. That was in 1893. They proved their good faith and ability, and from that time on their movements were rapid and continuous. In 1894 they incorporated the income tax in the Democratic tariff bill. It was thrown out by the court, and in 1896 the Democratic party declared in favor of the tax, and since that time the enactment of such a tax as a part of the permanent fiscal system of the Federal Government has been a party doctrine.

For sixteen years has the party been occupied in its campaigns of education upon this question. Other issues have come and gone; this has remained. So thorough and complete has been the work that, although our ticket failed of election in 1908, the successful Republican candidate, in less than four months after his inauguration, declared that the income tax should be adopted and expressed his belief that a majority of the people so think; and this in the face of the fact that in 1894 -- in the Fifty-third Congress --- every Republican in House and Senate opposed the law; that the entire Republican press of the country has consistently and persistently opposed the law; that no Republican candidate or convention has at any time favored the law; that the entire leadership of the Republican party everywhere has objected to the law; not because it was unfair or unjust, but because the revenues thereby created might enable the Government to get along without high protective duties.

The last-mentioned Republican objection is being met by Senator BORAH in his proposition to devote the revenues so realized from an income tax to the construction of a larger navy, and I see by the papers that ex-Senator Chandler, in New Hampshire, is rallying his party to the support of that idea. The chief danger from BORAH is that he is not only preeminently strong and able, but he is thoroughly sincere, and as the country knows him better it will appreciate that fact better.

As politicians, the Republican managers are the wonders of the world. In campaign times they put a blanket over ALDRICH, PENROSE, SMOOT, and some others and put forth such men as BORAH, DOLLIVER, CUMMINS, LA FOLLETTE, and announce to the public, "These are our apos-

ties," and the people believe it. Then comes the inauguration and the special session, *and the blanket is lifted* and the "true apostles" come forward into daylight and take full and complete charge. Suppose their plan was reversed, how many Western States would the Republicans carry?

The Taft proposition for the income tax has less merit than BORAH'S. Just before the President's late special message the papers informed us that it was due and expected, and the President wanted the tax, not as a part of the regular policy of the Government, but for use in times of war. His message asked for it, not as a part of the regular governmental system, but as a thing that will be handy for emergencies. They all recognize that we are just getting over "a prolonged Roosevelt spree," and we have got the bills to pay; but they stop at that, and propose that when the Nation gets over it shall drop the tax, or use it only for battle ships, which we may or may not want, or to pay for war or wars, which we hope to God we will never have.

Now, right now, John, is the time for such a man as you, assisted by CHAMP CLARK and all the party leaders, to lead the Democratic party to the very highest and best plane for the coming contest. Make it clear that we are and have been for the law as a *substantial, regular, and permanent* part of our fiscal system; and make it clear that if special purposes are to be accomplished, *there is one* vastly more important than the construction of battle ships or the preparation for improbable wars, one that affects the daily lives of millions of our people through every year and every month and every week. In my judgment, it is going to be a long fight and a hard one. There are 46 States; we must secure favorable action by legislators of 35 of them. We had just as well abandon the hope of having New Mexico and Arizona in our column, because the Aldrich contingent *will not let those two States be added, pending this contest*. I don't think for a moment that the President is acting in bad faith, but I have no doubt that Mr. ALDRICH and his associates have in their memorandum books now the names of the dozen States whose legislators they expect to control to defeat the constitutional amendment.

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Now, John, we are going to need every vote that it is possible to get in every State. The fight must be won now or never. Let us win it as a Democratic fight, if we can, and let us deserve to so win it; but, above all things, *let us win it*.

After long consideration and many months of deliberation, I say to you bluntly, that in my judgment the only way the fight can be won is for us to make some such declaration as the following, to wit:

We favor such constitutional amendments and legislation as will secure a federal tax upon the incomes of individuals and corporations, and candidly avow that one of the chief reasons is to enable the Federal government to abandon all whisky, wine, and beer taxes, and thus leave the sovereign States free and untrammled in their control of the liquor traffic.

Such a declaration will bring to the support of the measure tens of thousands of votes which it might not otherwise secure. It will put us on a plane which will entitle us to their support. What is more important, the declaration is just, fair, wise, candid, and right.

Do you say to me that it is un-Democratic? I answer that you and others representing us there can make it Democratic until the convention meet next year, just as Bryan, CLARK, and other Democrats in Congress made the income tax Democratic in 1894, two years prior to the national convention of 1896. And I answer further, it is now Democratic. This question cannot be longer handled with gloves; it has been dodged and avoided too long already.

You may not have and would not assume the authority, probably, to commit the Democratic party on the dry or on the wet side of the liquor question, but nothing can be more Democratic, John, than to declare that Uncle Sam should take his hands off and leave the sovereign States undisturbed in settling the question *as they please*. All old notions about our party and sumptuary legislation have gone to the discard since the solid Democratic Southern States have set a new example during the last three years. You can see the same thing being repeated right here in Indiana, and it is not strange that such an example set by the solid South, should be first copied in Indiana north of the Mason and Dixon line. The best civilization we have is in the South. The worship of the dollar has not driven out the old religions down there. They still think more of their men than they do of dollars,

and more of their women than they do of men, and the same civilization more completely dominates the people of Indiana than those of any other Northern State.

You will find that such a resolution as I propose *will be adopted by somebody*; the times are ripe for it. Do not forget that the Prohibition party, in its national platform last year, declared *for an income tax*. Their cry has long been for a "stainless flag." Such a platform would give them a flag-platform --- a word for each star and each stripe. It is worth serious thought, John, that the party with such a shibboleth as "A just tax and a stainless flag" will have high claims, indeed, upon the patriotic voter. It would be a pity, indeed, for any party --- except the Democratic party --- to lay claim upon a flag platform or a flag campaign.

There are 46 stars in the flag standing for the 46 States; 13 of them for original States, 2 for Vermont and Maine, and 5 of them representing the States created from the Northwest Territory; that makes 20. The other 26 stars, John, stand for States, every single acre of which was acquired to the Republic by *Democratic Presidents as a Democratic policy*; there is not a Federalist acre or a Whig acre or a Republican acre represented on that flag. It is our flag, and any flag campaign should be our campaign.

However, the important thing *is to win the law* -- for the sake of ourselves, our children, and our children's children --- and we need and must have every vote that we can get in every State. You know how much I have this at heart and how many years I have waited to see this contest begun. Raise our banner high, John, and plant our feet firmly upon the highest possible plane; then a patriotic people and their righteous God will not let us fail.

Very truly, your friend,

LAFE PENCE.

Mr. CLARK of Missouri. Mr. Speaker, how much time do I get back?

The SPEAKER pro tempore. A minute and a half.

Mr. CLARK of Missouri. I yield five minutes to the gentleman from New York [Mr. GOLDFOGLE].

[Mr. GOLDFOGLE addressed the House. See Appendix.]

Mr. CLARK of Missouri. I now yield to the gentleman from Missouri, Judge DE ARMOND.

Mr. DE ARMOOND. Mr. Speaker, I had the satisfaction of voting for an income-tax provision in the Wilson tariff bill, passed in 1894, and have since improved every opportunity to vote that way. I have long been in favor of that kind of tax legislation. Nothing that has transpired lately or remotely has had any effect toward changing my judgment of the matter. I have long been of the belief that, as the Constitution now stands, there is power and authority in Congress to levy a constitutional income tax. I am confident that the power should be exercised now.

It seems to me that if there were a real desire to have such a tax the natural course would be to pass a law providing for it. It seems strange that the representatives of the people --- more than 390 in this body and 90 in the other --- should be halted year after year in any purpose that they really have because fourteen or fifteen years ago, by a decision of a divided court, standing five to four, an income-tax provision at that time in the law was declared to be void on account of unconstitutionality. If we will recall what happened at that time, we may recollect that when the question was first before the court there were eight justices present, and four believed the act to be constitutional and four believed it to be unconstitutional.

Later, with all the justices present, the full bench of nine, the matter came up again. It would naturally be supposed that the justice who was absent when the question was first passed upon, and present when it was passed upon later, would really cast the deciding vote. He voted in favor of sustaining the tax, but the tax was overthrown by the vote of one of those who had in the first instance voted to sustain it. He had changed his mind or his purpose --- how that was brought about we need not now stop to inquire --- so as to declare unconstitutional by a majority of one that which before he had by his vote and decision declared to be constitutional. Thank the Lord, that man is not now a member of the court.

Strange it is, with such a law disposed of in such a way, if we really desire an income tax, that we dally with the question year after year, and give as an excuse for not passing an income-tax law that the Supreme Court, in the manner that I have suggested and stated, once, years ago, declared such a law to be unconstitutional.

My judgment is that it is the duty of the House and the Senate to pass such measures as the Members believe to be constitutional, just, and proper, and leave to the Supreme Court the responsibility of determining the question of constitutionality when presented. Surely it cannot be the duty of Congress to re-

frain forever or indefinitely from putting up to the Supreme Court the question of the soundness of a 5 to 4 decision.

I will vote for the passage of this resolution to submit this constitutional amendment, but not in the ardent hope that anything effective will come of it, because I am right well satisfied that years and years will pass before this proposed amendment will go into the Constitution, if it ever goes into it. Do you suppose that over in the Senate of the United States if there was a belief or a fear that this income-tax amendment would go into the Constitution, the resolution to submit could go through by unanimous vote? You may, but I do not believe it. The expectation is to delude the American people by the submission of the amendment and then deprive them, and deprive them effectually, if possible, of the promised fruits by a failure to ratify it.

The State that does not vote for its ratification might as well vote against it. It is not necessary to vote against it; the amendment does not go into the Constitution until three-fourths of the States have ratified it. Those States that vote against it no more effectually decide against it than those that do not vote at all. I have long believed that the only reasonable hope for any material amendment of the Constitution of the United States must rest upon a convention convened to submit amendments. I hope the time may come, and come soon, when we shall have such a convention.

Not only is it desirable to have an income-tax amendment added to the Constitution --- though I believe an income-tax law should be passed now for a graduated income tax ---- but it is important to amend the Constitution as to several other matters. Congress can provide for a constitutional convention at the request of two-thirds of the States, and such a convention could consider the whole subject of constitutional amendments. Then not only this question, but every question of great importance to the people going to amendment of the Constitution, could be considered by the people's representatives selected solely for that purpose, and could be voted up or voted down by the several States.

If you really desire to have this amendment adopted, the chances of its adoption would be greatly increased by incorporating in this resolution some such amendment as that suggested by the gentleman from Texas [Mr. HENRY]. If this amendment were submitted directly to conventions in the several States, the members elected strictly and solely with reference to the question submitted, there would be some prospect that the judgment of the people would prevail, and that by a direct appeal to the people and a prompt decision by them ratification of the amendment might be secured. But with all the opportunity for delay afforded by submission to state legislatures, and with all the incentives to delay, the prospect of this amendment getting into the Constitution is, I fear, dim and distant, indeed.

Some gentlemen here have expressed themselves in favor of this resolution in order that we may lay an income tax if war comes and dire necessity. It is no more just to tax in a particular way in time of war than to lay the same tax the same way in time of peace, varying the rate as the need for revenue varies. This is a question of justice and propriety.

So far as war necessity is concerned, that necessity can be met at any time, even under the decision of the Supreme Court, if an income tax will meet it. An income tax can be laid that will assuredly meet the test of the judgment of the Supreme Court, because it can be laid, though not equitably, in proportion to population, if you please, and if extreme necessity requires it and that be the only way, that way could be taken.

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There is no good reason why taxation should not be according to ability to pay --- according to wealth, according to income. Your tariff tax is a tax upon necessity, a tax in proportion to the amount you buy, a tax in proportion to what you must have, not a tax in proportion to what you possess. Let us tax wealth, no want --- dollars, not men; and why not do it now? [Applause on the Democratic side.]

The SPEAKER. The time of the gentleman has expired.

Mr. HEFLIN. Mr. Speaker, if the Republican party is in earnest about this matter and wants to be entirely fair and honest with the American people, you will vote for an income-tax law, and then provide also for an amendment to the Constitution, which could be resorted to in the event the Supreme Court declares the new income-tax law unconstitutional.

If you should do this, there would be no longer any question as to your sincerity in the matter --- your friendship for the measure.

This income-tax proposition is purely a Democratic measure, and it is the fairest and most just method of taxation ever devised by the genius of man.

I am in favor of amending the Constitution if it needs amending in order to obtain an income-tax law, but I believe that an income-tax law is constitutional, and that the Supreme Court, as now constituted, would declare it so.

If we had an income-tax law, it would bring millions of money into the Treasury, and those paying it would scarcely miss it, and it would lighten the burden that now rests so heavily on the great body of consumers.

The Republican party is not in favor of an income tax, and the submission of this amendment to the Constitution, instead of voting straight on the income tax, is your plan of procrastination.

The Republican party always moved against the lines of least resistance, and when that party cannot defeat a measure, it makes promises and postpones action.

The gentleman from Missouri [Mr. BARTHOLDT] said that when we elected the first Democratic President after the war between the States that we talked about an income tax because, according to his statement, we thought of tearing down the custom-houses and would need revenue from that source to run the Government. I want to tell the gentleman that the custom-houses have not been destroyed, and the Republican party has been in power in every branch of the Government for more than twelve years, and your tariff tax is the highest that it has ever been, and yet you have not the revenues now with which to meet the extravagance indulged in by the Republican party. [Applause on the Democratic side.]

Mr. Speaker, we have had a panic --- a Republican panic --- the evil effects of which are still with us. I have heard various reasons assigned for the panic, and the gentleman from Kansas [Mr. MILLER] now tells us "that the bankers caused it." Well, Mr. Speaker, some of these bankers are among the millionaires whom we want to reach with an income-tax law, and if the gentleman wants to punish that class of citizens on whom he wishes to throw the blame for this Republican panic, let him join us in voting for an income-tax law.

I am not going to make a lengthy speech at this time, for I discussed, at some length, the Payne bill when it was up for consideration in the House.

In passing, however, I want to give an example of what this Aldrich bill is going to do to the American consumer.

Here is what the editor of the Birmingham Age-Herald says, and says truly:

PRICE OF CLOTHING HEREAFTER

To those who are compelled to buy moderate-priced clothing the Aldrich scheme of duties brings these results, namely, a suit of clothes which cost \$10 last spring will cost \$12.50 next spring. The cost of the \$16 suit will be advanced to \$18. The cost of the \$18 suit will be advanced to \$22. The cost of the \$20 suit will be advanced to \$25.

Does this look like a revision downward?

And now, Mr. Speaker, here is a notice sent out by a wholesale sugar dealer, who is a friend of the consumer.

I am indebted to the Barfield-Green Mercantile Company, of Lineville, Ala., in my district, for sending me this notice:

NOTICE

With no duty on sugar, sugar would be 2 cents per pound cheaper.

Write your Senator and Congressman that you favor "free sugar."

The Aldrich bill strikes hard the necessities of life all along the line, and if gentlemen here think that the people are ignorant of what you are doing you will find in the next election that you are entirely mistaken.

Mr. Speaker, the States wisely and justly provide that every taxpayer shall know the exact amount of taxes that he pays every year --- taxes on money loaned or hoarded, so much on personal property and so much on real estate. The taxpayer knows, as he has a right to know, just how much taxes he is required to pay the city, county, and state government. But, Mr. Speaker, under your mysterious tariff-tax law, you tax the citizen, and you refuse to let him know just how much he is taxed by the Federal Government. The tariff tax is hid in the price of things that he must buy, and at the end of the year he knows that the cost of living has increased; but he does not know how much you have taxed him under the system of a high protective tariff. This is wrong, and you should amend this tariff bill now, so that it will re-

quire that on every article upon which you have laid a tariff, the amount of the tariff tax shall be stamped, so that the consumer may know as he buys the necessities of life what the tariff tax is, and at the end of the year he will know the amount of tariff tax that you have compelled him to pay.

For instance, if the tariff on a wool hat is \$1.50, and the tariff on a pair of shoes is 25 or 50 cents, and on a piece of machinery \$50, when the machinery only cost \$100 to begin with, bear in mind, the consumer would begin to see how you hold him up with one hand and rob him with the other. If he could only realize how he is being imposed upon and robbed by the present tariff system, it would not be long until the Republican party would be driven from power in every branch of the Government; and then a just and equitable tariff law would be passed by the representatives of the Democratic party.

The man of small means, with his goods in sight, and the man who has to struggle for the necessities of life, bear the tax burdens of the Government. Those least able to pay are forced, under this Republican system of tariff taxation, to divide their earnings with the tariff barons and an extravagant Federal Government.

The man whose income amounts to several thousand dollars a year, and the man whose yearly income runs into the millions, will be reached by an income tax, and they will be forced to contribute to the support of the Government.

Of course the law should provide that a man's yearly income must be so many thousand dollars before you begin to tax it. The purpose of such a law is to tax those most able to pay taxes, and lighten the tax burden on those least able to bear it.

Let us put the greatest tax burden, in the form of an income tax, on the man who is most benefitted by the tariff protection that the Government gives, for he is most able to bear it.

From the man who has much in this world's goods much should be expected and demanded in the way of taxes to pay the expenses of the government under which he lives.

Just here, Mr. Speaker, I will include in my remarks a statement from Robert Ellis Thompson, in the Irish World.

In discussing the evil of indirect taxes in England he says:

The only real corrective to this injustice has been the income tax, devised by William Pitt when England was fighting, and revived in 1842 by Peel and Gladstone as a means to save the country from annual deficits. Until within thirty years past seven-eighths of the British revenue came from indirect taxes --- taxes which tend to make the rich richer and the poor poorer by an unjust distribution of the public burdens.

An income tax seeks to reach the unearned wealth of the country and to make it pay its share.

So much for that.

Now, Mr. Speaker, this Capitol is the civic temple of the people, and we are here by direction of the people to reduce the tariff tax and enact a law in the interest of the people. This was the expressed will of the people at the polls, and you promised to carry out that will, but you have not kept faith with the American people.

The Dingley law carries the highest tariff tax of any law that was ever enacted by Congress, and you gentlemen were elected --- again intrusted with power --- on the distinct understanding and in the firm belief on the part of the people that you would reduce the tariff tax and lower the Dingley rates, and yet the Payne tariff bill that passed the House increased the tariff tax and carries a higher rate than the Dingley law; and now comes the Aldrich bill, which is the most obnoxious and burdensome tariff scheme that ever found sanction in either branch of the American Congress. The tariff barons are in complete control, and the American people have been deceived.

The Republican party is going to be called upon to give an account of its stewardship. At the judgment bar of the people you must account for your broken campaign promises and your violated platform pledges, and all signs indicate that you will hear the dread sentence, "Depart from power, you unfaithful servants."

Your failure to reduce the tariff tax is an admission that your party is absolutely in the hands of the favored few who profit by a high protective tariff. Your failure to revise the tariff downward, as you promised you would do, stamps you with deceit and unfaithfulness to the American people and brands your party as unworthy of their confidence any longer.

This is plain talk, Mr. Speaker, but no plainer than the facts justify. Your declarations that you would revise the tariff downward sounded from every stump, in the last national campaign, and yet your promises have not been kept. Your platform pledges to revise the tariff downward were printed in all the newspapers of the country and carried by your literature into the homes of all the people, but, alas!, those pledges have not been fulfilled.

I derive no pleasure, Mr. Speaker, in calling attention to this situation because it helps the Democratic party; I deplore the miserable condition that it reveals. My heart is made sad and a sense of shame and humiliation steals upon me when I see the purse-proud barons of high-tariff protection write the statute laws by which they become enormously rich and politically powerful at the expense and to the great injury of the masses of the people. [Applause on the Democratic side.]

And these men around whom the operation of your unjust tariff laws has piled millions, reveling in luxury, retire from business at will and say in their hearts, "Soul, take thine ease." But, sir, I would remind you of a struggle out yonder among the bread earners of America. This struggle is unceasing. No field is cleared in the battle for bread; no bugle sings truce to the toiling millions; and yet under this miserable Aldrich bill the industry and skill of the man who toils are taxed, but the fortunes of the idle rich escape the scrutinizing eye of the Republican party. [Applause on the Democratic side.]

The great body of consumers: struggling for the "wherewith" to buy the simple necessities of life are taxed, and heavily taxed, by this Aldrich bill, not only to raise revenues to meet the extravagant expenditures of the Republican party, but taxed for the benefit of those who profit by the Republican policy of high protection --- those who furnish the Republicans with campaign funds with which to corrupt the ballot and debauch American manhood. [Applause on the Democratic side.]

The simple wants of the plain people are taxed beyond all reason, while the comforts and conveniences of life are placed beyond their reach.

The man who is not willing to work, who drifts aimlessly through life, does not deserve much consideration by anybody; but, sir, the man who is willing to employ the powers that God has given him in the effort to better his condition, to gratify his legitimate wants deserves the commendation of every honest man, and, in the name of justice, I demand for him a fair chance in the struggle for existence.

When you, by tariff taxation, lay heavy burdens upon the things that this man needs and must have to make his wife and children comfortable and happy, you are working injury to this man and his family --- you are standing between them and a worthy existence, and you are committing a crime against the American home.

The great God who so bountifully blessed this old world in the things with which to feed, clothe, and shelter the people, never intended that a few men should claim all the increase from ocean, oil, and air, and the fathers never dreamed that a few millionaires in America would become the arrogant dictators or bosses of the National Government. Nor did the builders of the Republic believe that the time would come when the barons of high protection would scorn the rights and wishes of the people and tax them at every turn in their existence, in order to enrich themselves; but that time has come.

Mr. Speaker, I want someone on that side of the House to tell me the difference between the bold robber who holds you up on the highway and robs you of your money, and the government that does the bidding of a band of robbers who prescribe the conditions by which you shall come and surrender your money? I will tell you the difference: One takes his chances and runs the risk of losing his own life in his efforts to rob others, while the other gang uses governmental machinery to hold up and plunder the citizen and in the name of law commits its crime against humanity.

Their patriotism is measured by the size of the fortunes that you permit them to filch from the American consumers. The stars on the flag resemble dollar marks to them, and the stripes represent the special favors that they enjoy at the hands of a government controlled by the Republican party.

The Republican party regards the presence of a few money kings as evidence of America's prosperity; but not so. These men are the product of governmental favoritism, the creatures of unjust tariff taxation. The laws that made them millionaires have robbed millions of people of the necessities of life.

But, Mr. Speaker, in spite of subsidized newspapers, that keep the truth from the people; in spite of the disgusting aristocracy of the dollar, that controls the Government through the Republican party, we shall continue to proclaim that the comfort, the happiness, and well-being of the American citizen is the surest sign of genuine prosperity, the highest end and aim of constitutional government. [Applause on the Democratic side.]

Mr. COX of Indiana. Mr. Speaker, the Ways and Means Committee reported the tariff bill to Congress on the 18th of March, 1909, and it passed the House on the 9th day of April, 1909. The Constitution provides that "all bills for raising revenue must originate in the House," and that "Congress shall have the power to lay and collect taxes, duties, imposts, and excises, but all duties, imposts, and excises shall be uniform throughout the United States;" and it further provides that "Representatives and direct taxes shall be apportioned among the several States according to the respective numbers," and that "no capitation or other direct tax shall be laid unless in proportion to the population of the States." The constitutional power of Congress to tax the people for the support of the Government is complete and plenary, the only restraint found in it relating to the taxing power of Congress is that "Congress is forbidden to impose an export tax upon any article exported from any State."

Mr. Speaker, the two systems of raising revenue for the support of the Government in ordinary times of peace have been a duty upon foreign manufactured goods imported into this country, together with an internal-revenue tax upon liquors, cigars, tobacco, and so forth. In ordinary times of peace these two systems of raising revenue to meet the required expenditures of the Government have been found adequate, but in times of war, or even in times of peace when the appropriations of the Government have been exorbitant, the Government has resorted to other systems of taxation. It finds itself to-day compelled to resort to some other system of taxation than a tax upon imports and an internal-revenue tax for the purpose of raising money to meet its required expenditures.

Tax of any kind is always burdensome to the people, no matter in what form it may be imposed, or in what guise it may be enacted into law --- no matter if it be a direct tax upon property, as most, if not all the States, have; or an indirect tax, such as a duty upon goods imported into this country; or an internal-revenue tax, it is a burden just the same. But the people, if treated fairly, with uniform taxation, readily yield this power to the Government for the protection which the Government gives in return to the people.

People heretofore have been more concerned with taxation in their respective States than they have with tax imposed by the Federal Government. With the former they come in direct contact. This tax is usually measured to them by the county treasurer or the gatherer of the tax, and is always measured in dollars and cents. The amount it is fixed, definite, and certain. Not so with any system of indirect taxation. This tax is paid by the consumer indirectly upon the amount of goods consumed by him, regardless of his ability to pay. This kind of tax is a tax upon consumption, and not upon either property or financial ability to pay the tax. Mr. Speaker, a tax upon consumption is a deceptive tax, for the reason that the consumer of the commodity is always unable to tell how much duty there is on it which has gone to the support of his Government, or how much has gone to the support and maintenance of the manufacturers and trusts; and by reason of the blindness connected with its payment the consumer has continued to pay it; but in later years the ever-continued increase of the cost of the necessaries of life has caused an outcry by a large part of the mass of the people, and this outcry upon their part forced the Republican party to declare in its platform for a revision of the tariff and later the convening of Congress, for the purpose of redeeming the anteelection pledges made by the Republican party.

When Congress entered upon this task, it was confronted with several questions. It was confronted with an enormous deficit in the Treasury together with a demand on the part of the masses of the people, backed in their demand by the Republican party's platform and the promises of President Taft for a downward revision of the tariff, so as to relieve them of some of the burdens imposed upon them under the Dingley bill; and with a demand on the part of the high priests of protection that they be not molested in their high and lofty citadel, from which the great captains of industry for the past twelve years have continued to issue orders to the great mass of people, and to harmonize an these conflicting interests the Republican party has been laboring long and late. That it will satisfy the high priests of protection there is no doubt; that it will fail to satisfy the masses of the people there is no doubt; that it will not raise enough revenue by imposing a duty upon imports for the support of the Government there is no doubt.

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Since July, 1908, there has been a constantly growing deficit in the Treasury of the United States, until to-day it reaches the enormous sum of \$96,199,355.90. To frame a tariff bill giving to the trust barons all they wanted and fulfill the pledges made to the people, and, at the same time, between these two conflicting interests to raise revenue to supply the growing deficit in the Treasury and to meet the future necessi-

ties of the Government has indeed been a herculean task for the party in power. Mr. PAYNE, in explanation of the bill, said:

Now the question of revenues under this bill is a serious question, and yet it is not so serious as it would appear at first blush. It is true we had a big deficit on the 1st of July last for the previous year, but we had had a big depression in business; importations halted, revenues had been cut down, and when that continued during the fiscal year of 1909 down to the present time, showing a deficiency of \$87,000,000, it looked like a difficult task to provide sufficient revenue for the expenditures of the Government.

The appropriations made by the second session of the Sixtieth Congress for the year ending June 30, 1910, were \$1,044,401,857.12, and the estimated revenue out of which this appropriation was to be made from all sources --- customs duties, internal revenue tax, and so forth --- is only \$852,340,712. It is an easy matter to observe that under the ordinary system of raising money for the support of the Government, instead of the Treasury deficit being wiped out it will be largely increased by the end of the fiscal year June 30, 1910, unless some other system is devised for the purpose of raising revenue. In my judgment the time has come when one of two things must occur --- either reduce public expenditures to a safe and sane basis, or devise some other means of raising the revenue for the support of the Government than the means now in force. It was apparent to the framers of the present tariff bill that it would not raise revenue to meet the expenditures of the Government, and in order to aid in supplying this deficiency the bill when it passed the House contained a provision for an inheritance tax, and from this item alone the chairman of the committee estimated that a revenue of \$20,000,000 per year would be raised. And the Senate having substituted a tax upon the net incomes of corporations for an inheritance tax, and this at the instance of President Taft, again showed the doubt in the minds of the Senate and the President that the bill will not raise the required amount of revenue. Both of these steps were taken in aid of the Treasury, and to stave off the constantly growing but popular demand for an income tax.

In my judgment, the expenditures could be materially reduced; and while we are promised a reduction of \$10,000,000 in the navy and \$20,000,000 in the army for next year, will we get it? It is a fact that no one of the departments of the Government willingly yields any of its power, and its main power has consisted in seeing how much of the people's money it could appropriate and expend every year. With the navy appropriations leaping from the small sum of \$33,034,234.19 in 1898 to \$137,000,000 in 1909, and with the appropriations for the army growing from \$23,129,334.30 in 1898 to \$110,000,000 in 1909, and with the appropriations in all other departments of the Government keeping pace with these two, can we cajole ourselves into believing that of a sudden we will about face, retrench, and reform by having a marked reduction of public expenditures in the Government? Let us hope so; but, for one, I fear we will not have it. So long as we hold the Philippine Islands, together with our other colonial possessions, and maintain a suzerainty over Cuba and remit to China \$12,000,000 as our part of the indemnity growing out of the Boxer uprising, I see but little hope for permanent retrenchment in the public expenditures of the people's money. Since it is evident that the Government is in need of revenue, and equally evident that our system of raising revenue is totally inadequate to meet the demands of the Government, and since some other system of raising revenue must be devised, the question is: What shall it be? Evidently not an inheritance tax, because the Senate and the President both have turned their backs upon this righteous measure, although President Taft at one time was heartily in favor of it. Evidently not an income tax, although on the 19th day of August, 1907, at Columbus, Ohio, the President, while making a speech, said:

In times of great national need, however, an income tax would be of great assistance in furnishing means to carry on the Government, and it is not free from doubt how the Supreme Court, with changed membership, would view a new income-tax law under such conditions. The court was nearly evenly divided in the last case, and during the civil war great sums were collected by an income tax without judicial interference and, it was then supposed, within the federal power. Whenever the government revenues need an increase or readjustment, I should strongly favor a graduated inheritance tax and, if necessary for the revenue, a change in the Constitution authorizing a federal income tax, with all the incidental influence of both measures to lessen the motive for accumulation.

But Mr. Speaker, this is not all. On the 28th of July, 1908, after Mr. Taft was nominated for the Presidency, in his speech of acceptance, at Cincinnati, on this subject he said:

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

Mr. Speaker, when it was an assured fact that the Bailey-Cummins income-tax amendment would pass the Senate and with the equally assured fact that it would pass the House, Mr. Taft suddenly sent to Congress a message asking that a tax of 2 per cent be imposed upon the net incomes of corporations. Mr. Speaker, while I will support this measure, I must confess that I do not do it with the alacrity and force with which I would have gladly supported an income tax. Taxation, at its minimum, is always a burden upon any people, but I believe this burden should be uniformly distributed throughout the country, resting upon the shoulders of all, without discrimination against some and in favor of others, and this is exactly what will be the result of a tax upon the net incomes of all corporations. It will impose a tax upon a corporation and at the same time exempt the individual or the copartnership engaged in the same business along by the side of the corporation. This in itself is unfair, but nearly all the large corporations --- the trusts, the railroads, and the express companies --- are bonded for a large part of their wealth. The railroads alone, being bonded for upward of \$6,000,000,000, and the trusts for at least an equal sum, these sums representing one-ninth of the total wealth of the country, under this system of taxation all this immense wealth will escape the burden, although these bonds are gold-bearing interest bonds, drawing from 4 to 6 per cent, payable from 1913 down to the end of the present century.

But, Mr. Speaker, this is not all. There are thousands of little corporations scattered over the country having no bonded debt at all, their property being represented by the stock of the corporation, and this class of corporations will have to pay full tax upon their net incomes, having no bonded debt to reduce their net earnings.

But this is not all. No one for a moment doubts but what the tax will in the end be largely shifted from the shoulders of the corporations to the shoulders of the consumers. The railroads and the express companies will raise their charges, so that in the end people using these public corporations will pay the tax. Likewise the same will be true as to the products of all the great trusts of the country. The price of manufactured goods will be increased to the amount of the tax, and the consumer in the end will pay the bill.

But, Mr. Speaker, this is true of any tax the burden of which can be shifted from one to the other. In the last analysis of this kind of tax the consumer or the user of the article must ultimately pay it. It is true of a tax raised by means of a duty upon imports, where the burden of the tax is shifted directly from the shoulder of the importer of the goods to the purchaser of the same, by having the cost of the duty added to the cost of the articles paid by the purchaser in the end. But, Mr. Speaker, for more than one hundred and seventeen years we have been accustomed to raising revenue in this country by means of a duty imposed upon imported goods until it has become a part of the traditions of our people, so that in this day it will be difficult to completely turn them from this old-time idea of raising revenue. But, sir, in my judgment, there is a much easier way of raising revenue than by imposing a tax upon net incomes of corporations or by imposing such enormous revenue duties upon imports. This system will not be found in a tax upon the net incomes of corporations; it can be partially found in an inheritance tax, and can be completely found in a graduated income tax. Mr. Speaker, here man and corporation will both stand upon an equality; here man and corporation will pay upon his income, whether derived by his own individual exertion or aided by the passage of class legislation.

Whenever man alone or a combination of men take advantage of the laws of nature or the laws of man, and out of this advantage create wealth beyond the dreams of avarice, in my opinion this wealth should be subjected to taxation. But, say its enemies, it is an inquisitorial tax; it opens the door and pries into the private affairs of life. So does any other tax. It is no more inquisitorial, makes no more inquiries into life, than does the direct property tax in the States upon real and personal property. What is the tax in the States both upon real and personal property but an inquisitorial tax? When the township or county assessor takes an inventory of the people's property he compels them, unless they commit perjury, to disclose all the property they have subject to taxation. But, again, they say that this is a tax upon thrift. So be it. And so is all direct taxation in the States a tax upon thrift; no more, no less. The man in the States who is industrious and thrifty in the accumulation of property must and does pay more tax than his neighbor who is less thrifty and less industrious; yet this system of taxation has worked admirably from the

foundation of the Government down to the present time. On kindred principles would not an income tax for the Government work the same?

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Senator John Sherman, of Ohio, on the 22d day of June, 1870, while in the Senate, speaking against the repeal of the then income-tax law, said, in part:

They have declared it to be invidious. Well, sir, all taxes are invidious. They say it is inquisitorial. Take the ordinary taxes levied in the State of Ohio, and in all the States in this country, by the Statutes at Large. Do they not require the assessor to go around and ascertain the personal property of every citizen? Is that not inquisitorial? * * * Every tax is inquisitorial, and the least inquisitorial of all is the income tax. * * *

You go to the homestead of a widow who has nothing but a roof to cover her head, and you levy your tax upon the entire value of the homestead and make her pay it, although she may have to sell the last shoat, the last chicken, the last egg to pay it. So, also, you levy on the property of the rich. Is not that an unjust tax? Certainly it is; and you cannot levy tax so as to make them just in all respects. * * *

The income tax is simply an assessment upon a man according to his ability to pay --- according to his annual gains. What tax could be more just in theory?

When you come down to the solid basis of evenhanded justice, you will find that writers on political economy, as well as our own sentiments of what is just and right, teach us that a man ought to pay taxes according to his income and in no other way. Property is not the proper test of taxes, because, as I said before, the property of the poor may be levied upon to make up the deficiencies in the property of the rich; unproductive property that yields no rent and no income may be compelled to pay the same rate of taxation as property which yields an annual rental of from 10 to 15 per cent. * * *

* * * If you now repeal the tax on incomes, you have to continue the taxes on the consumption of the poor. You have now the choice between levying a little bit of a tax on property, which, after all, will only yield us about 6 per cent of our annual income, and piling the whole of this taxation, with its accumulation of the past, upon consumption, and not upon property.

Senator Morton, of Indiana, in the second session of the Forty-first Congress, speaking against the repeal of the income tax, said:

Then there is the argument of demoralization. These people who have to pay income tax insist that they will be demoralized; they do not want to be demoralized, but they know they will be! Therefore we must exempt them for fear they will be demoralized!

All this argument about demoralization, therefore, is just as applicable to the state taxes as to federal-income tax; and if it is a good argument for abolishing one it is a good argument for abolishing the other. I have no respect for that argument, not a bit; I have heard it urged for years now against the income tax, but a moment's examination will satisfy anybody that if it is a good argument at all it is good against any tax except a mere tax on real estate, which is visible to the assessor, and which he assesses without consulting the owner.

What honest objection is there to letting his neighbors know his real condition? If he conceals his real condition, it is ipso facto a fraud for some purpose, though not one of those frauds of which the law can take cognizance. He may hold out the impression that he is doing well when he is not, and get a false credit. Does the law, or do morals require that he shall have the right to do that? Certainly not. No honest man, then, need be afraid of the inquisitorial feature. * * *

* * * The income tax: is, of all others, the most just and equitable, because it is the truest measure that has yet been found of the productive property of the country. * * *

But, sir, when you tax a man on his income, it is because his property is productive. He pays out of his abundance because he has got the abundance. If to pay his income tax is a misfortune, it is because he has the misfortune to have the income upon which it is paid. * * *

In the Dingley bill there were upward of 4,000 different articles upon the dutiable list, with an average ad valorem rate of about 45 per cent, which means that to the cost of every \$100 worth of goods bought and consumed in this country \$45 in the way of duty would be added. Under the Payne bill there will be as

many goods upon the dutiable list as there were under the Dingley bill, with an average ad valorem rate equal to, if not greater, than the rate in the Dingley bill. In the desperate attempt to raise money by this system the people are to-day groaning under a system of high taxation upon the necessities of life and are casting about to find some relief against these unequal burdens. How can they do it? My answer is, By the adoption of an income tax. Who has stood for an income tax in the past? Such master minds as Senators Sherman and Morton, from whom I have so liberally quoted. And, later, no less a personage than President Roosevelt in many public speeches and writings has stood for an income tax. In his annual message to the second session of the Fifty-ninth Congress he said, in speaking of this subject:

The National Government has long derived its chief revenue from a tariff on imports and from an internal or excise tax. In addition to these there is every reason why, when our next system of taxation is revised, the National Government should impose a graduated inheritance tax and, if possible, a graduated income tax. The man of great wealth owes a peculiar obligation to the state, because he derives special advantages from the mere existence of government. Not only should he recognize this obligation in the way he leads his daily life and in the way he earns and spends his money, but it should also be recognized by the way in which he pays for the protection the state gives him. * * * Whenever we as a people undertake to remodel our taxation system along the lines suggested, we must make it clear beyond peradventure that our aim is to distribute the burden of supporting the Government more equitably than at present; that we intend to treat rich man and poor man on a basis of absolute equality; and that we regard it as equally fatal to true democracy to do or permit injustice to one as to do or permit injustice to the other. * * * In its incidents and apart from the main purpose of raising revenue, an income tax stands on an entirely different footing from an inheritance tax, because it involves no question of perpetuation of fortunes swollen to an unhealthy size. The question is, in its essence, a question of the proper adjustment of burdens to benefits. As the law now stands it is undoubtedly difficult to devise a national income tax which shall be constitutional, but whether it is absolutely possible is another question, and if possible it is most certainly desirable.

The Democratic party in 1894 passed an income-tax law, which was held by a bare majority of one in 1895 to be unconstitutional. From that time down to the present the Democratic party has never faltered in its demand for an income tax. And no man in the United States has done as much to mold sentiment in favor of this tax as W. J. Bryan. The people are aroused to-day along this line as never before. Under a graduated income tax enough revenue could be raised to practically support the Government without oppressing anyone. For more than one hundred years England has had an income tax in some form or other. For this year the British Government will collect \$165,103,000 revenue by means of an income tax, and yet she has a population of only 44,500,000, and this tax it derives upon a total assessment amounting to \$476,404,000, divided as follows: An income tax on 58,049 firms; an income tax on 33,508 public companies; an income tax on 10,639 local authorities. And out of all her total assessments for income-tax purposes there were only 20 individuals and 92 firms whose incomes were over \$250,000 per year. Under her graduated system of income tax all incomes over and above \$800 per year are assessed, the per cent of assessment increasing as the incomes of corporations or individuals continue to increase. In wealth the United States outstrips every nation upon the earth. Our population in continental United States in round numbers is to-day 90,000,000, more than twice that of Great Britain. Our total value of property to-day is upward of one hundred and ten billions --- more than twice that of Great Britain, two and one-half times that of France, and about two and three-fourths that of Germany. With the Bailey-Cummins amendment exempting all yearly incomes below \$5,000, in my judgment, we would raise twice the amount of revenue that England raises because of our superior wealth and population. The Washington Post recently published a list of a few of the larger corporations which would be taxed upon their net incomes, showing the amount of revenue the Government would receive by imposing a 2 per cent tax upon the net incomes of these corporations, which is as follows:

CORPORATIONS	1907	1908	CORPORATIONS	1907	1908
Adams Express Company		\$90,000	Dominion Coal Company	\$42,000	\$53,000
Allis-Chalmers Company	\$25,000	50,000	Du Pont Powder Company	78,000	98,000
American Agricultural Chemical Company	43,000	43,000	Federal Mining and Smelting Company	50,000	21,000
Amalgamated Copper Company	280,000	133,000	General Electric Company	226,000	213,000
American Beet Sugar Company	10,000	20,000	General Asphalt Company	17,000	34,000
American Can Company	53,000	54,000	General Chemical Company	21,000	20,000
American Car and Foundry Company	162,000	164,000	International Harvester Company	160,000	177,000
American Cigar Company	37,000	-----	International Paper Company	32,000	32,000
American Cotton Oil Company	52,000	30,000	International Mercantile Marine Company	140,000	-----
American Hide and Leather Company	5,400	260	Lehigh Coal and Navigation Company	47,000	45,000
American Locomotive Company	135,000	99,000	Massachusetts Gas Company	32,000	35,000
American Shipbuilding Company	32,000	26,000	Mexican Telegraph Company	17,500	12,000
American Smelting and Refining Company	230,000	152,000	National Biscuit Company	79,000	82,000
American Sugar Refining Company	165,000	125,000	National Carbon Company	19,000	16,000
American Telegraph and Telephone Company	650,000	710,000	National Lead Company	79,000	79,000
American Tobacco Company	540,000	574,000	North American Company	28,000	29,000
American Woolen Company	68,000	25,000	Pacific Mail Steamship Company	11,000	620
Anaconda Copper Company	184,000	74,000	Pressed Steel Car Company	50,000	3,000
Batopilas Mining Company	2,900	2,900	People's Gaslight and Coal Company	103,000	110,000
Brooklyn Union Gas Company	48,000	54,000	Pittsburg Coal Company	80,000	30,000
Butte Coalition Mining Company	1,400	28,000	Philadelphia Electric Company	18,000	19,000
Cambria Steel Company	91,000	30,000	Pittsburg Brewing Company	44,000	25,000
Calumet and Arizona Mining Company	70,000	22,000	Pittsburg Plate Glass Company	44,000	26,000
Central Leather Company	46,000	54,000	Pullman Company	230,000	195,000
Chicago Telephone Company	35,000	40,000	Quaker Oats Company	24,000	19,000
Colorado Fuel and Iron Company	59,000	57,000	Railway Spring Steel Company	46,000	20,000
Consolidated Gas Company	32,000	-----	Republic Iron and Steel Company	132,000	80,000
Consolidation Coal Company	33,000	19,000	Sloss-Sheffield Steel and Iron Company	33,000	23,000
Crucible Steel Company	53,000	-----	Union Bag and Paper Company	14,000	18,000
Corn Products Refining Company	40,000	49,000	United States Rubber Company	90,000	71,000
Diamond Match Company	32,000	32,000	United States Steel Corporation	1,000,000	920,000
Distillers' Security Corporation	70,000	26,000	Virginia-Carolina Chemical Company	80,000	70,000
Dominion Coal Company	42,000	53,000	Western Union Telegraph Company	98,000	32,000
Du Pont Powder Company	78,000	98,000	Wolverine Copper Company	26,000	11,000

RAILROADS	1907	1908	RAILROADS	1907	1908
Atchison, Topeka and Santa Fe	\$420,000	\$270,000	Kansas City Southern	\$49,000	\$32,000
Atlantic Coast Line	62,000	55,000	Lehigh Valley	132,000	120,000
Big Four	39,000	14,000	Louisville and Nashville	129,000	56,000
Boston and Maine	52,000	-----	Missouri, Kansas and Texas	74,000	16,000
Brooklyn Rapid Transit	40,000	35,000	Missouri Pacific	133,000	60,000
Baltimore and Ohio	349,000	202,000	Montreal Street Railway	20,000	22,000
Central Railroad of New Jersey	115,000	96,000	New York, New Hampshire and Hartford	178,000	105,000
Chesapeake and Ohio	68,000	55,000	New York, Ontario, and Western	33,000	30,000
Chicago and Alton	36,000	26,000	New York Central	220,000	180,000
Chicago and Northwestern	315,000	272,000	Nickel Plate	26,000	20,000
Chicago, Burlington and Quincy	176,000	176,000	Norfolk and Western	140,000	115,000
Chicago, Milwaukee and St. Paul	268,000	247,000	Northern Pacific	468,000	400,000
Colorado and Southern	42,000	43,000	Pittsburg, Cincinnati, Chicago and St. Louis	75,000	59,000
Delaware and Hudson	128,000	105,000	Pennsylvania	600,000	490,000
Delaware, Lackawanna, and Western	200,000	213,000	Rock Island	175,000	94,000
Denver and Rio Grande	50,000	63,000	Reading	165,000	168,000
Detroit United Railways	22,000	20,000	Southern Railway	46,000	8,000
Erie	83,000	44,000	Southern Pacific	540,000	385,000
Great Northern	350,000	300,000	St. Louis and San Francisco	95,000	10,000
Hocking Valley	36,000	27,000	Texas and Pacific	56,000	23,000
Illinois Central	233,000	160,000	Twin City Rapid Transit	37,000	37,000
Iowa Central	9,000	4,000	Union Pacific	723,000	715,000
Kansas City Railway and Light	18,000	17,000			

It will be observed that from these items alone an enormous amount of revenue will be raised under the corporation tax. An amount two or three times as large would be raised under a graduated income tax.

It is not my intention to belittle wealth, but, on the other hand, I believe it should be the duty of all to uphold it where it is honestly procured. The idea that men like Carnegie, now the holder of more than \$300,000,000 worth of the bonds of the United States steel trust, escape federal taxation is indeed absurd. A few days ago the public was treated to a spectacle in New York, in what was known as the famous "Gould divorce case", where Mr. George Gould testified that the annual share of his brother Howard in their father's estate was approximately \$800,000; and then, to realize all of these enormous fortunes are escaping their just and proportionate share of taxation while the people themselves are staggering under our present system of indirect taxation, it is no wonder to me they cry out for relief. If it be the determination of the so-called "business interests" in this country to maintain an enormous navy at a cost of hundreds of millions of dollars annually, as well as an army, to protect and defend their various business interests, I insist that this part of the wealth of the country ought to stand its proportionate share of taxation, and I know of no way to compel them to do it as justly and equitably as an income tax. [Loud applause.]

Mr. SHARP. Mr. Speaker, it is with some reluctance that I shall cast my vote for this measure. Though I have always been, and am now, in favor of a graduated income tax --- for it is good Democratic as well as sound economic doctrine --- yet the circumstances under which this resolution comes to the House smacks so much of subterfuge and disingenuous motives that a vote for it seemingly indorses the ruse. Acceptable as such a method of taxation is conceded to be, I believe, by a large majority of the Members in this House, yet it is difficult to dissociate from its merits the fact that had those Senators by whose vote this resolution comes to the House had been sincerely in favor of such a tax we would be to-day voting for its incorporation in the Payne tariff bill, instead of sending it out in the form of a constitutional amendment upon its hazardous journey of successfully running the gauntlet of three-fourths of the state legislatures of the Union. Indeed, the situation confronting us is a most unusual one.

Since Congress was convened in special session last March to consider tariff legislation the changes in the various plans for raising revenue have been kaleidoscopic and at times most mystifying. When the bill left this House, it had appended to it a provision for the inheritance tax. Soon after its admission to the Senate the expert tariff surgeons of that august body removed this appendix, only to have another complication to deal with in the form of a corporation tax. The already troubled situation over in that body was not made more pleasing by a vigorous presentation of an income-tax provision, most ably and persistent-

ly advocated for many days by the so-called "progressive" wing of the dominant party, backed by the almost-solid Democracy. To appease this sentiment and at the same time prevent a revolt threatening the very passage of the bill itself, the resolution which we now have before us, providing for a constitutional amendment, was finally passed by the Senate, in return for which the proposition to tax corporate earnings was to have easy sailing.

And now comes the harrowing rumor that possibly this corporation tax, the panacea for preventing vanishing revenues, may be rejected by the conferees --- a thing to be devoutly wished for by a very large element of both political parties. Surely, if future events justify this rumor, "for ways that are dark and tricks that are vain" the Senate tariff jugglers have more than outdone the "heathen Chinese".

I am aware that the national platform of the Democratic party has declared in favor of submitting an income-tax constitutional amendment and that one law of Congress imposing such a tax has been declared unconstitutional by our highest court in a close decision; but by no less an authority than the President himself, at one time looked upon as the best-qualified man in the country for the position of Chief Justice of that court, has it been declared that, in his opinion, a law providing for an income tax might now be so framed as to be declared constitutional. More than this, in his speeches at different times, the President has declared in favor of the wisdom and justice of an income tax in one form or another. The same sentiment was expressed by ex-President Roosevelt in his message of December, 1906.

Opponents of the measure seem to forget that such an income-tax law was in existence in the United States during the war and for a short time thereafter; that many millions of dollars were collected under it, and that its constitutionality was never questioned, or at least there was no judicial interference with its operation. The imposition of an income tax for providing revenues for the Government is not an experiment among nations, for, aside from our own experience during the rebellion, it has been tried for more than one hundred years in Great Britain, and to-day in that country it yields more revenue than any other one form of taxation. For the fiscal year ending March 31, 1909, the revenue from the income tax in Great Britain and Ireland, with a population of about half that of the United States, amounted to \$165,103,000, derived from net incomes of approximately \$3,200,000,000.

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The very recent report of Special Agent Charles M. Pepper to the Department of Commerce and Labor gives some interesting and instructive information concerning the income-tax law of Great Britain. For the purpose of showing how the incomes there are graded for taxation, let me quote from that report as follows, the various amounts being in English pounds sterling (\$4.866):

Grade of Income	Number of assessments	Gross amount of income
Not exceeding £160, but not exempt	318,570	£22,841,134
Exceeding £160 and not exceeding £200	237,775	43,946,713
Exceeding £200 and not exceeding £300	205,914	52,105,397
Exceeding £300 and not exceeding £400	80,019	28,676,015
Exceeding £400 and not exceeding £500	44,176	22,509,034
Exceeding £500 and not exceeding £600	23,175	13,094,198
Exceeding £600 and not exceeding £700	13,811	9,127,473
Exceeding £700 and not exceeding £800	11,154	8,509,841
Exceeding £800 and not exceeding £900	6,350	5,457,305
Exceeding £900 and not exceeding £1,000	8,758	8,552,796
Exceeding £1,000 and not exceeding £2,000	23,032	33,758,188
Exceeding £2,000 and not exceeding £3,000	7,407	18,592,178
Exceeding £3,000 and not exceeding £4,000	3,803	13,376,481
Exceeding £4,000 and not exceeding £5,000	2,533	11,560,511
Exceeding £5,000 and not exceeding £10,000	4,831	34,909,592
Exceeding £10,000 and not exceeding £50,000	4,188	87,275,455
Exceeding £50,000	949	174,174,323

It will be noticed that the incomes are carefully graded, beginning substantially with a difference of \$500, then increasing to \$1,000, and finally from \$5,000 to \$25,000 and more. The rates also of assessment, while not shown in the table, increase with the amount of income and also vary according to schedules involving different sources of income. Such a law has given the greatest satisfaction in Great Britain, and such a method of taxation carefully adjusted to meet the different conditions in this country should, in my judgment, be passed by Congress in connection with this tariff bill; if then declared unconstitutional, provision could be made for adopting a constitutional amendment therefor.

So much has been said of the merits of an income-tax law that I will not attempt, in the brief time allotted to me, to consider at length the advantages of this form of taxation. A few points in its favor, however, stand out boldly from all the others. One of the most salient is that, upon its very face, it places the burden of taxation most heavily upon those who are most able to bear it. Under our present system of raising revenue just the reverse is true, for a man may be a modern Croesus and yet he can wear but little more clothing or eat but little more than the humblest workingman. It is indeed proverbially true that the wealth of the poor man often consists in the size of his family; and yet, under the provisions of this general tariff bill, not a boot or shoe, an article of clothing, a mouthful of food, or a bit of material, raw or manufactured, that goes into the construction of his house, or tools or farming implements but what is heavily taxed for the support of the Government. But the burden does not end here, for, under our various state tax laws, it is notoriously true, for most obvious reasons, that the man whose sole property consists often of his little home and let me say that this class of industrious citizens comprises a very large majority of our people—pays very much more than his share of the taxes. The township or ward assessor may be unable to find the secreted wealth of the rich or well-to-do man, but the little home with its patch of garden is altogether too conspicuous to escape the tax gatherer's notice.

Yet, as heavy as this direct burden of taxation seems to be, it does not compare in amount to the indirect tax imposed upon the consumer who daily must pay tribute upon nearly every article of food or clothing which he buys. James G. Blaine, nearly twenty years ago, protesting against placing a duty on hides, pointed out in a letter to William McKinley what it meant in so many cents for each pair of boots and shoes worn by the children of that great army of men who are least able to stand the burden. Already the press is announcing through its columns that the big dealers in clothing are preparing to make an advance in the price of many articles affected by the provisions of this bill.

Some days ago the New York World gave out a list of the returns upon the personal property of a score of that city's richest people. If I remember correctly, none reached higher than \$5,000,000, while quite a large proportion were below a quarter of a million dollars. Perhaps under the laws of the State of New York the personal property of these citizens was honestly returned, but, if common reports are true, the annual income alone of nearly all of those named exceeds the entire amount of personal property so listed.

In defining the reason for the right of the Government to levy contributions in the form of taxes upon persons and property, Judge Cooley says:

The State demands and receives them (taxes) from the subjects of taxation within its jurisdiction that it may be enabled to carry into effect its mandates and perform its manifold functions, and the citizen pays from his property the portion demanded, in order that by means thereof he may be secure in the enjoyment of the benefits of organized society. The justification of the demand is therefore found in the reciprocal duties of protection and support between the State and those who are subject to its authority, and the exclusive sovereignty and jurisdiction of the State over all persons and property within its limits for governmental purposes. The person upon whom the demand is made, or whose property is taken, owes to the State a duty to do what shall be his just proportion toward the support of the Government, and the State is supposed to make adequate and full compensation in the protection which it gives to his life, liberty, and property, and in the increase to the value of his possessions, by the use to which the money contributed is applied.

The justness and fairness of these reasons for imposing taxes have been universally recognized by the most enlightened governments. Do they show good cause why incomes should not be taxed in proportion to their size? Is not the income of a citizen made more secure and larger from the fact that "the State is supposed to make adequate and full compensation in the protection which it gives to his life, liberty, and property, and in the increase to the value of his possessions?" There are thousands of instances of wealthy men who, owning little or no real estate, which, because of being visible and tangible; is always first reached, yet enjoy very large incomes from investments which neither directly nor indirectly are listed

for taxation. Is it fair that these men should bear no burden in meeting the expenses of maintaining the Government?

There has been much said concerning the amount of revenue which could be realized from an inheritance tax or a tax upon corporate earnings, the amounts being variously estimated at from \$25,000,000 to \$50,000,000, and yet a modest income tax --- exempting, if you please, all incomes below \$5,000 --- would, I believe, easily yield an annual revenue of more than \$100,000,000. But, sir, as much as I am in favor of a well-adjusted income tax and the adoption of this resolution if necessary, yet I must confess I have but little faith that this proposed amendment will succeed in being incorporated in the Constitution. Possibly by that other method of amending the Constitution provided for in Article V, whereby state conventions could be called for that purpose, this proposition would carry; but the securing of three-fourths of the state legislatures in its favor will, in my judgment, be too much to hope for, at least for many years to come.

What should be discussed and determined as a business and economic proposition, along wholly non-partisan lines, will be made a partisan issue, with the chances of success all in favor of the money power and machine tactics. Already one of our great party leaders has issued a call to arms among its supporters, and if it has not in the past become so prominent as a party issue, it is now bound to be so. Commendable and sincere as are the motives that prompted such call, yet therein lies its chief danger of defeat. Not but once since the election of 1872 has either party been able to control three-fourths of the state legislatures; and it is not at all probable that, with the party so evenly divided as at present, the opponents of an income tax will not succeed in preventing a ratification of the proposed amendment by the legislatures of more than a dozen States --- all that are required to defeat it.

In fact, the arguments already advanced upon the floor of this House by the opponents of this measure serve to show, by unmistakable signs, the difficulties that will later on be put in its path. Perhaps one of the keenest and most learned speeches made against it came this afternoon from the lips of the gentleman from Massachusetts [Mr. McCALL], whose arguments will be repeated at the proper time from the house tops in his State by those who oppose it. Indeed, the wide latitude of the power of taxation, as given by the terms of the proposed amendment, will serve as a specious reason, at least, for rejecting it. While the various provisions of the Constitution were under discussion at the time of its adoption, no one subject was more thoroughly discussed or aroused more interest than that of relative representation by the different States and the power of taxation. Each State was very jealous of the power ceded to its neighboring State, and as late as the year 1832 the State of South Carolina practically attempted to secede from the Union on account of "the system of protecting duties lately adopted by the Federal Government." The final reason, among a number of others, for such action, as cited by that State's legislature, could have so well been incorporated into the speeches of not a few Members on this floor who recently so eloquently pleaded for the tariff duty upon the favorite products of their own States, that the arguments then used may well be put in the deadly parallel column with those made three-fourths of a century later. Let me take the liberty of quoting in full the final summary of the reasons of those statesmen why their State had been so grievously discriminated against, and which required the power of President Jackson's famous message to combat:

Finally, because South Carolina, from her climate, situation, and peculiar institutions, is, and must ever continue to be, wholly dependent upon agriculture and commerce, not only for her prosperity, but for her very existence as a State --- the blessings by which divine Providence seems to have designed to compensate for the great disadvantages under which she suffers in other respects --- are among the very few that can be cultivated with any profit by slave labor, and if by the loss of her foreign commerce these products should be confined to an inadequate market, the fate of this fertile State would be poverty and utter desolation; her citizens, in despair, would emigrate to more fortunate regions, and the whole frame and constitution of her civil polity be impaired and deranged, if not dissolved entirely.

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How long will it take the opponents of this resolution residing in the State of Connecticut to take up the words of opposition that came to-day from their able Representative [Mr. HILL], who inadvertently, in giving as a reason why he opposed the doctrine of income tax, stated that under an inheritance tax his little State had contributed more than the combined revenues so realized from 15 or 20 States, including my

own great State of Ohio, yet thus furnished the unwilling evidence that his people were enabled to become possessed of such great wealth through the unequal and oppressive operation of the high tariff which for so long a time in the past has showered wealth into their coffers by levying unwelcome tribute upon the less fortunate citizens of the other States which he enumerated? But if opposition to this amendment is to be made in the wealthy New England States, what will be its reception in some of the western mining States where, according to a frank admission made to me within the past few days by one of its ablest Representatives in this House, no poor man, however able, could hope to be elected to the United States Senate? In some of these States from a dozen to twenty members of the legislature may effectually block the ratification by their State of this amendment. With such difficulties in its way, with the power of organized wealth back of it, with small States treated as units having exactly the same power and influence as the biggest States, can we reasonably hope for this proposed sixteenth amendment to our Constitution to become ratified? If this question could be submitted to the people of the United States upon a popular vote, I have no doubt of its carrying by an overwhelming majority; but, unfortunately, it cannot be so submitted.

In conclusion, for some of the reasons I have stated, let me appeal to this House that, before it is too late, we may by our action incorporate in this bill a straight out provision for an income tax, instructing our conferees to stand firmly for its adoption, taking the chances of its passing a favorable decision by the courts. No one act that the Members of this body could do would reflect more credit upon the House or give more genuine satisfaction to the American people who, groaning under the present oppressive burdens, with no relief in sight from the promised downward revision, earnestly desire, as I believe, the adoption of an income-tax law.

The time has surely passed when the arguments of those who advocate a change in our system of national taxation whereby an equal and more just distribution of the burdens of taxation may be made can be dismissed as the clamorings of demagogues and as attacks upon wealth. I have always favored conservative rather than radical policies, and trust I am not one of those who undervalue the worth to state and society of the successful men who are popularly designated as those who "do things," but I am just as strongly opposed to any policy of protection or exemption from taxation that each year automatically tends to make the rich man richer and the poor man poorer. [Applause.]

Mr. CLARK of Missouri. I yield four minutes to the gentleman from Missouri [Mr. RUCKER].

Mr. RUCKER of Missouri. Mr. Speaker, I only want to say a word or two. If I have an opportunity, I am going to vote for the amendment proposed by the gentleman from Texas [Mr. HENRY]. I shall do so for the reason that I believe if this proposed amendment goes to conventions held by the people of the States that it will be adopted, and adopted speedily; but should it pass here without amendment and thus go to the States for ratification by state legislatures, I have grave fears as to the reception it will meet in certain sections of the country. I believe that the representatives of wealth, including some of the gentlemen who have stood here to-day and pleaded almost piteously for the rich, will be strong enough in those States to prevent legislative action. Why, Mr. Speaker, the gentleman from Connecticut [Mr. HILL] announced a startling proposition a moment ago. He spoke of the two States of Rhode Island and Connecticut, two little States so devoid of fertility and productiveness of soil that the combined energies of their total population cannot produce enough of the great staples of life in any one year to avert the horrors of a bread famine for the short space of twenty-four hours; and yet he told us that in those little, impoverished States, where the people are especially favored by the vicious, unjust, inequitable, cruel, robber tariff, riches have so accumulated and piled up around a few men that the wealth of those two States equals or is greater than the combined wealth of 35 of the great producing States of this Union.

I am in favor of an income tax. If I cannot get the resolution amended as suggested, I will gladly vote for it as it is, because if adopted by the legislatures of three-fourths of the States, it will become a part of the organic law of my country, and it will make the rich constituents of the gentleman from Connecticut [Mr. HILL] pay a part of the revenues necessary to support the Government. It will make the constituents of the gentleman from New York [Mr. PAYNE] contribute from their wealth. It will make the rich constituents of the gentleman from Massachusetts [Mr. McCALL] contribute their part; and with this amendment to the Constitution, no future Congress, I trust, would even feel called upon or compelled to enact any such iniquitous law as the pending tariff bill, thereby increasing the burdens of the people and extorting from them an additional \$200,000,000 in a single year for the clothes they wear. It would not then be necessary to again add from 35 to 125 per cent to the cost of cotton goods used in the homes of our country. This amendment to the Constitution would result in lifting from the backs of those already too heavily bur-

dened --- the poor of the country --- a part of the burden of the Government, and placing it upon the shoulders of those most able to bear it --- the rich.

I heartily indorse and support the income-tax proposition. I would make a graduated income tax, and I would so adjust the rates as to compel the millionaires of this country, who have been immune from taxation, to pay a just and liberal part of the revenues required for the support of the Government. [Applause on the Democratic side.]

Mr. CLARK of Missouri. I yield five minutes to the gentleman from Texas [Mr. DIES].

Mr. DIES. Mr. Speaker, I am for a graduated income tax. I welcome the day when the Republican party is driven to an admission, by their course in this Congress, that to tax the people is not to bless the people. [Applause on the Democratic side.] I am for an income tax, not for the purpose of punishing the rich or exempting the poor from their just proportion of the burdens of taxation, but I am for it because it is a step in the direction of equality of taxation. For more than fifty years the Republican party has preached the doctrine that tariff taxation was productive of prosperity. They have contended, in effect, that to tax the citizen indirectly, by means of a tariff, was the proper and only method of creating wealth and maintaining the prosperity of the country. No greater encomium can ever be passed upon the wonderful natural resources of our country than the fact that the people have managed to make a living in spite of Republican taxation. Our fields are the most fertile in all the world, and yet if the farmer adds intelligence and industry to a fertile soil and produces an abundant yield he is told by the Republican party that he owes his prosperity to the tariff tax on agricultural implements and other articles of commerce entering into consumption on the farm. Our mines are richer than the fabled cave of Monte Cristo, but when the miner digs into the bowels of the earth and brings forth untold wealth for the use of man he is gravely assured that all of his good luck is due to the fact that the Republican party has required him to pay a tax on the tools with which he worked and the food and raiment with which he sustained himself. The American laborer in our factories, by reason of his superior skill, intelligence, and industry, nets to his employer greater profit than any laborer in the world, and yet this excellent toiler is sanctimoniously informed that he would be marched forthwith to the poorhouse if it were not for the boon he enjoys in being able to pay taxes on all that he eats and wears. And so the laborer in field and in factory, in mill and in mine, has been imposed upon and deceived by the craft and hypocrisy of Republican politics. Slowly, but surely, the American people are awakening from their long sleep upon the question of taxation. They are beginning to wonder how wealth can be created by taxation; they are beginning to doubt the truth of the Republican theory that if you take a part of the people's wealth in taxes you nevertheless leave them wealthier than before.

What form of taxation could be more unjust than to tax a man in proportion to what he eats, wears, and uses? Is it fair and equal taxation to say that the poor laborer with a good appetite should pay more taxes on the meal that he eats than the surfeited millionaire with a poor appetite? Is it fair and equal taxation to demand that a hard-working but poor farmer with a family of ten should pay ten times as much taxes to the Federal Government as the wealthy capitalist with no family at all? And yet such is the injustice which arises under a system which taxes consumption instead of wealth. To say that a man should pay taxes in proportion to the shoes, hats, and clothes he is compelled to buy instead of in proportion to the wealth which he calls upon the Government to protect for him is an economic absurdity and a flagrant legislative injustice. And yet this is the lullaby with which the Republican party has sung the people to sleep, while the pets of their tariff system have enriched themselves at the public expense beyond the wildest dreams of avarice. It is a damnable system which taxes want and exempts wealth --- which takes toll from the clothes on the poor man's back and leaves untouched the rich man's bank.

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I have the honor to represent in part the greatest State in the Union in point of domain, and which is soon to become the greatest State in the Union in point of population and wealth. We are not here to beg mercy at the hands of the Federal Government, but to demand justice. Among my constituents are many men of wealth, but I believe they are sufficiently intelligent and patriotic to concede the justice of an income tax. Many of my constituents are poor in this world's goods, but thank God they are rich in a manly spirit of independence, and all they ask at your hands is even and exact justice and a fair chance in the battle of life.

Mr. Speaker, I have advocated an income tax in season and out of season since I reached manhood's estate. I declared the justice of the doctrine in the days of its unpopularity; I proclaimed its fairness amid the jibes and jeers of men who taunted me with being a socialist and an anarchist. But the years have vindicated the advocates of an income tax, and I praise God for what mine eyes have seen and mine ears have heard during the course of this debate. President, Senate, and House, Republican and Democrat, high and low, concede now that a tax on incomes is a just and equitable tax. And it is well that we do concede it here, for behind this movement is the righteous and insistent demand of the American people. Let us rejoice and be exceeding glad, for it is a great day for the Democratic party, and what is more, it is a great day for the American people, when the Republican party is whipped into an admission that to tax the people is to burden and not to bless them. [Applause on the Democratic side.] And in that coming day of the revival of intelligence and patriotism, when the thought shall dawn upon the toilers of this country that to tax their food and clothing is a burdensome and unjust tax to be borne by them, the Republican party will be driven from the economic fallacy of a high protective tariff. What folly to sigh for the trade of the world while you throw up a tariff barrier to restrain and prohibit trade.

Mr. Speaker, the Republican fallacy that taxation is a blessing and not a burden has inflicted this country with the most unparalleled extravagance known to the administration of civilized governments. While pretending to believe that you were creating wealth by a tariff tax, you have succeeded only in transferring wealth from the pockets of the many to the coffers of the few, and the people, under the spell of this delusion, have suffered you to waste the wealth of the Nation in reckless appropriations which ought to shock the conscience of every honest man. Give us an era when men can see and understand that every dollar of taxes exacted is a burden wrung from the toil of the people and not a Republican blessing in disguise and you will see less of wasteful extravagance and more of honest economy in the administration of our affairs. So long as the great body of the people pay all the taxes and the small but wealthy class receive all the benefit in the so-called "protection" of their industries, we may not hope for frugality and honesty in the public expenditure. But you shift the load of taxation from consumption to wealth, and demand that the rich pay upon their incomes, and you will hear a mighty cry go up from the camps of plutocracy for economy at Washington. The Republican party is beating a slow and sullen retreat, and it is a great day for the Democracy and the people to see them thus falling back in confusion and disorder from their Leipzig, because it means that they are approaching their Waterloo. [Applause on the Democratic side.]

Mr. CLARK of Missouri. How much more time have I left?

The SPEAKER pro tempore. The gentleman has eleven minutes.

Mr. CLARK of Missouri. I yield the eleven minutes to the gentleman from Arkansas [Mr. ROBINSON].

Mr. ROBINSON. Mr. Speaker, I wish this were a proposition that would enable this House to express its sense as to whether the Congress desires an income-tax law or not. I should like it if the men who do the voting, the men who send us to Congress and keep us here, could have an opportunity of knowing the individual convictions of every Member of this Congress on this great subject.

There is but one way, Mr. Speaker, in which this could be accomplished. That is, by bringing in here a bill to impose an income tax. Any man with the courage of his convictions, who has honest political motives, ought to be willing that this Congress should express itself fairly and fully on the question whether we desire an income tax. Let us have a vote on it.

I once heard a Member of this body, who knows more about legislation here than any one man ought to know, say that all legislation is the result of compromise. If by the word "compromise" is meant an adjustment of differences in which no one who is primarily a party in interest gets what he wants, and one who deserves no consideration in the controversy gets the award, then this resolution is an illustration, Mr. Speaker, of the correctness of the assertion in that regard of the regular occupant of the chair.

Down in Arkansas two lawyers who had incurred the displeasure of a negro magistrate appeared in his court to try a hotly contested lawsuit, and they consented, at the suggestion of the magistrate, that they would abide any judgment which he and their clients might agree to. The magistrate promptly entered a judgment dividing the property between the litigants and ordered that the lawyers pay all the costs. [Laughter and applause.] This is a compromise resolution, which may defeat the people's demand for an income tax.

The action, Mr. Speaker, of this Congress in postponing consideration of an income-tax law is a subterfuge pure and simple.

Mr. COLE. Will the gentleman from Arkansas yield?

Mr. ROBINSON. I will yield to the gentleman.

Mr. COLE. If the resolution submitting this amendment to a vote of the state legislatures is a subterfuge, why was it embodied in the Democratic platform at Denver?

Mr. ROBINSON. Mr. Speaker, I will reply to that in a moment. I had started to say that the decision of the Supreme Court in the Pollock case I have never subscribed to. I would not make that announcement here if I did not believe that practically all the great lawyers in this country are unanimous in condemning that decision. But, sir, we will vote to submit this proposition because we know that you are unwilling that we should pass an income-tax law, and it is the only chance the people in this country will have to pass upon the question. [Applause on the Democratic side.]

The Democratic party put it in its platform out of a sense of respect to the court, whose conduct, in my judgment, does not merit the greatest consideration for its decision of the Pollock case. [Applause on the Democratic side.] The fact that a judge changed his conclusion in a matter of that importance overnight; the fact that the opinion is discredited and rejected by the great lawyers of the country, without regard to politics, convinces me that in respecting that opinion you are merely trying to postpone this question until a reaction can occur on the subject. Let us have the issue now and let us meet it fairly and squarely. The people of the United States are in favor of an income tax. Let us pass this resolution and let us also pass an income-tax law.

The gentleman from Massachusetts [Mr. McCALL] said that no one whom he knows of, except Mr. Bryan, has studied this subject. Be it then said to the credit of that great man that he has compelled the Republican party in Congress and in the Senate of the United States to give respect to his opinion. [Applause on the Democratic side.]

I do not appear here to eulogize any man, but let gentlemen who deride Mr. Bryan remember that he stands head and shoulders above any other man in America in private life today. [Applause.] Let them remember that all the great reforms that have been brought about in politics during the last few years have been wrung from a reluctant Republican party through his advocacy of measures before the American people. [Applause on the Democratic side.] Let them remember that in private life, as well as in public conduct, he is above reproach.

Mr. Speaker, there are some objections urged here to this measure which I would like to reply to. The gentleman from New York [Mr. PAYNE] and the gentleman from Connecticut [Mr. HILL] both subscribe to the doctrine that an income tax ought never to be applied except in case of war. Why, Mr. Speaker, should not one who has great wealth bear his share of the burdens of this Government in times of peace? Why should the man of ordinary means, the poor man, if you please, bear all the burdens of this Government in time of peace and then when war comes fight its battles? Something has been said about millionaires going to war. Who ever heard of a millionaire going to war? Everybody with either recollection or experience knows that when war comes the millionaire moves out of the country, or hires a substitute, or hides himself. It is the ordinary man, the citizen of moderate means, the man who performs daily toil, that at the call of his country shoulders his musket and leaves his home and goes down to battle and perhaps to death on a bloody field. [Applause.]

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I say that the principle of taxing incomes in time of war is no more reasonable or just than in taxing them in time of peace. The gentleman from Missouri [Mr. BARTHOLDT] says that he congratulates the Republican party on having "come over" to his view of the matter. I hail with delight a new Moses in the wilderness! I am glad to know, Mr. Speaker, that he is convinced that the Republican party honestly believes in an income tax; but as sure as we are here, nobody in charge of this measure expects it to be ratified. They expect to go into some of the state legislatures and defeat it or prevent its ratification. I say let us pass this resolution and then let them bring in an income-tax bill and let us pass it and present it to the Supreme Court, and again let the Supreme Court pass on the matter. They will reverse the decision in the Pollock case, for it stands in the judicial history of this country as one opinion upon an important matter rendered by that great court that cannot be vindicated in the judgment of any considerable number of the members of the American bar.

I am for an income tax, Mr. Speaker, for some reasons that you gentlemen over there are against it. I am for an income tax for the reason that I believe it a fair and just method of taxation, and for the further reason that I believe it will help to break down the high protective-tariff wall which you have constructed. And I want to say to you now that when an income-tax feature is placed in our revenue laws you will see

that it will become a popular method of taxation. It will reduce the popularity of your high protective tariff, and at last force you to do for the American people what you promised to do in the last election, and which you had not the slightest intention of doing when you made the promise. You told them you would reduce the tariff. Ah, you say you made no specific promises of tariff "reduction", yet the promise of tariff revision was the result of agitation in favor of tariff reduction. It was written in your platform because you heard the tread and steady step of millions of voters of this country marching to the polls threatening to turn you out of power. You dared not declare against it. Your candidate for President went before the people of the country and said that the tariff rates under the Dingley law had become excessive and should be reduced.

In his speech delivered at Cincinnati September 22, 1908, while the campaign was in progress, Mr. Taft said:

The Dingley tariff has served the country well, but its rates have become generally excessive. They have become excessive because conditions have changed since its passage in 1896. Some of the rates are probably too low, due also to the change of conditions. But on the whole the tariff ought to be lowered.

In December, 1908, after the election, he said, in an address to the Ohio Society:

Better no revision at all, better that the new bill should fail, unless we have an honest and thorough revision on the basis laid down and the principles outlined in the party's platform.

Comment upon this language is unnecessary. It asserts that the Dingley rates are generally too high and ought to be reduced; that the pledge in the platform to reduce the tariff ought to be kept. And now you assert on that side of this chamber that "tariff revision" did not mean tariff reduction. When you say that you are deliberately trying to fool the American people. It remains to be seen how long you can continue this course and remain in power. It must be determined hereafter by the public whether you can promise tariff reduction before the election and repudiate that promise after the election and still retain favor.

This repeated attempt by leaders of the Republican party here and elsewhere to put an untenable construction on the platform upon which they won the election has discredited their sincerity and made them objects of derision and contempt. Who ever heard of a Republican campaign speaker telling the people in 1908 that the platform did not mean reduction of rates any more than it meant increase of rates? In view of the history of this plank in the platform; the agitation which caused its insertion; the construction placed upon it by the Republican nominee for President both before and after the election; the construction given it by the newspapers and campaign speakers advocating the Republican ticket; and the universal understanding of its meaning, it is now dishonest to contend that it did not promise substantial reduction. I have said that Republican newspapers throughout the country have condemned the majority in Congress for violating the party pledge to reduce the tariff. As an illustration of the disappointment which is but partly expressed in editorials of many leading Republican newspapers, I submit an editorial from the Boston Herald, of May the 6th. This paper is reputed to have supported the Republican ticket vigorously in 1908. It said:

It would be better to reenact the Dingley bill forthwith, and then adjourn Congress, than to continue the ridiculous discussion and the worse than foolish tinkering with the tariff now going on at Washington. The country is disgusted. It has waited in vain for some sign that the pledge of the Republican party would be kept, a pledge made not only by the party in convention, but by the recent leader of the party, Mr. Roosevelt, and by the present leader, President Taft. Neither Mr. Roosevelt nor Mr. Taft is to be blamed for the hopeless breakdown of the party promise, nor is the mass of Republicans throughout the country. To the blindness --- some call it shrewdness --- of the congressional leaders, their callous disregard of an enlightened public opinion, must be ascribed the plight in which the country finds itself, dragging in the muddle of tariff talk, the end of the course not yet in sight.

Mr. Speaker, is the work of this extraordinary session of Congress to result in worse than failure? Shall we enact a measure which will increase the tribute our present laws extort from the general public to gratify the avarice of special interests?

This session of Congress will adjourn in a few days. Its records will be a perpetual monument to our indifference or our incapacity. For four months we have been deliberating upon a single subject. The

longer we deliberate, the more confused we become, and the less confidence the public feel in the willingness of their lawmakers to treat them justly. When the Payne bill passed the House, many Members who voted for it did so reluctantly. No one was entirely satisfied with it.

The newspapers of the country, without regard to politics, almost unanimously criticized it. Universal disappointment was expressed at the failure of this body in its passage of the bill to reduce the rates on many articles in common use. Expressions of disappointment and regret were not confined to Members on the Democratic side of this Chamber. They were frequently heard from Republicans in speeches on the floor, in interviews, and public discussions --- Republicans who have been loyal all their lives to the organization and principles of their party. No one, not excepting the amiable leader of that party on this floor, the gentleman from New York [Mr. PAYNE], dared to speak of it or dream of the Payne bill as a model of legislative propriety and the embodiment of what should be contained in a tariff bill. But behold how greater ills have transformed this lesser evil into a creature of beauty; its defects have become invisible, and its deformities appear attractive. When messengers from this body bore the Payne bill from this Chamber for its consideration elsewhere it seems that they were mere pallbearers of the dead hopes of a patient, trusting public. It was not then anticipated that in its progress toward final enactment into law the proposed measure would be stripped of the few provisions it contained of benefit to the people at large. It was not feared that the reductions it contemplated in rates on some prime necessities would be superseded by marked increases. Yet the unexpected has happened. It occurs so often in legislation that it is becoming "the regular order."

THE PAYNE BILL HAS BECOME A MODEL.

The advocates of tariff revision "downward," those Republicans who are old fashioned enough to adhere to the pledge in their platform sacredly made, those who are credulous enough to have believed that there was any intention of keeping it when the platform was adopted, are now abandoning hope. The people of the whole country are disgusted. They realize that a skillful "confidence" game has been played on the table of high politics; that the cards were marked when the game opened, and they have not even the gambler's chance in an honest game to win. This is a "compromise" in which the masses of the people are directly interested. The bill we are threatening to pass will make living more costly to the average man without materially expanding his opportunities. There are some who insist that the draft of the bill as now considered will not in fact increase the cost of any necessity of life, and that on the whole a reduction is made, because, they say, the number of reductions exceeds the number of increases. When, however, you examine the proposed amendments, you find that many of the proposed decreases relate to trivial articles, others to articles not in common use, whereas the principal increases are on the food and clothing commonly eaten and worn. It follows that the number of increases or decreases is not the correct criterion by which to determine whether the cost of living will be increased, but rather the character of the articles on which the rates are increased or reduced and the extent to which the same are used.

Without attempting any analysis now of the very complicated schedules of the proposed measure, it is sufficient to say that the rates on many articles of common use are or may be increased. Among them may be fairly included woolen cloth, gloves, hosiery, hats, imported suitings, underwear, shoes, soaps, builder's materials, perfumery, lemons, pineapples, olives, spices, figs, nuts, raisins, laces, embroidery, cord, and paper.

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All these and no doubt many others. Mill men are already sending out price lists showing increases of from 25 per cent to 50 per cent in woolen fabrics. I assume that this may be due to the proposed increase in the duty on them. Of what possible benefit can this increase be to the ordinary citizen? Are not the rates on this class of imports already high enough? How is the increased duty on gloves to be justified? Throughout the long consideration of this measure no Member, no newspaper has attempted a justification of this increase. These increases have been made arrogantly in spite of public opinion and without necessity.

Nobody now expects the Republican party to keep its platform pledge to reduce the tariff. There is little pretense among those who control it of any such purpose. It has been said by some in power in this body, and by others high in authority in the councils of the Republican party in another chamber in this Capitol, that no pledge was made to reduce the tariff; that the promise was merely to "revise the schedules", and that this meant a promise to increase as much as it meant a promise to decrease the rates.

The promise honestly construed was a promise to reduce. Everyone knows that. The gentleman from New York, I believe, recognizes it. It is not susceptible of any other construction. I grant you that the Republican platform did not use the specific word "reduce," but it was the demand for a reduction in the rates that caused the insertion of the plank in the platform. This demand was well-nigh universal. It came from millions of active, aggressive citizens of the West, whose convictions as to the necessity for reduction in tariff rates are earnest and well known to every politician. It came from the South; from every section of the Union. Its champions were high in authority in the Republican party. The former President yielded his desire for a reduction of tariff rates to party expediency and consented to postponement of action until after the election. It was public opinion in favor of reduction in tariff rates that forced the Republican party, whose leaders for the most part were opposed to reduction, to declare for tariff revision.

It is not fair to conclude, then, since none claimed that the rates were too low and desired them raised, and since the agitation all occurred about reducing rates, that a reasonable construction of the pledge warrants an increase. This construction was placed upon the platform by your campaigners, and votes were secured on the express theory that "tariff revision" as promised in the platform meant tariff reduction.

The President will be called upon to meet a supreme test of his fidelity to himself and those who trusted him and believed in the promises of his party. When this bill goes to him for his signature, will he keep faith to the millions who attested their confidence in his honor and sincerity, or will he yield to the persuasion or compulsion of those who regard promises made before election as not binding after election? Now is approaching the critical hour in the consideration of this legislation. Will the people or those who would prey upon them win? The world regards this as a test of the efficiency of representative government in the United States. We have the power. Let us exercise it. If every man here will vote as he conscientiously believes; if all Members who regard this measure as little or no improvement in existing law will fight it to the finish, the cause of the public is not hopeless and the honor of this body may yet be vindicated.

The sea of American political controversy is never in perfect calm. Its bosom is always disturbed by whirlpools and tossed by tempests. Sometimes its surface is lurid with many lights that dance and gleam and dazzle, then vanish from the political mariner's light. Occasionally the clouds part and the sun shines and a rainbow comes to beautify the brow of evening, while soft winds blow perfumed promises of safe and happy voyages to every craft afloat. Such hours pass too soon. The light quickly dies from the heavens and the night robes the sea in gloom, while the storm king heralds his advance with the lightning's flash and the thunder's roar. Far out at sea, between the land of "Longed For" and the realm of "Never Shall be", many a goodly vessel loses its bearings and drifts a hopeless derelict with broken masts and fallen spars. The shores of the political sea are strewn with ghastly corpses of hopes thrown overboard and washed ashore. Along the beach lie scattered shattered hulls and broken beams. Its bottoms hold in close embrace rich cargoes of unrealized ambitions.

Mr. Speaker, the Republican party to-day is at sea in a floundering ship, tempest tossed, its sails torn, and its masts broken, with blind or drunken helmsmen at the wheel. It is making for any old port of the political sea, whether there is a harbor or not. [Applause on the Democratic side.] It will appropriate the political thunder of William J. Bryan, whom it has denounced as an anarchist, and then solemnly come before the American Congress and ask the Members here to support his ideas. There are men in this Chamber who owe William J. Bryan an apology. It is not my province or duty to deliver them a lecture, but I say to you that if I had denounced a man as an anarchist, as you did, Mr. Speaker, in 1896; if I had gone into my State and cried out against seating in the President's chair an anarchist; if I and my party, against my will, had been driven by public opinion to adopt his ideas, I would take off my hat to him and say, "William, you are not so bad a man as I dreamed you were. I am the bad man myself." [Applause on the Democratic side.]

Mr. Speaker, do you honestly believe that the purpose in passing this resolution is to provide for an income tax? Do you not want to wait until the people quit talking about it and then go before the legislatures of the States and beat it? Why not adopt the Henry amendment and submit it to conventions? Then it would be ratified. Do you not know as a lawyer that if a similar bill to that of 1894 went before the Supreme Court of the United States you could hardly get a lawyer to appear there and say on his professional opinion that it was an unconstitutional act? When men from the great cities of this country, men who have all their lives represented corporate interests, appear here and repudiate the decision of the Supreme Court in that case, I say to you it is only because the American people have long ago repudiated it. It is time this old, slow, dragging House of Representatives, which never does anything until it feels

the whip and spur of public opinion, should lift up its head and assume the authority the makers of this Government intended it should exercise. I thank the House for the extension of my time and for the attentive hearing given me. [Applause on the Democratic side.]

Mr. LONGWORTH. Mr. Speaker, I yield five minutes to the gentleman from Ohio [Mr. COLE].

Mr. COLE. Mr. Speaker, I have no intention of discussing the merits of this proposition. I simply desire to interject a few observations drawn from the speech of the gentleman from Arkansas [Mr. ROBINSON]. I am always delighted with his magnificent appearance upon the floor of this House and his very emphatic and effective method of delivery, and to-day was no exception to that general rule. He has certainly given us an exposition of the Democratic side of this question that will stand long in history as an unparalleled example of classic political literature.

Now, the particular section that I wish to call your attention to in the Democratic platform is the one relative to an income tax.

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

Mr. COLE. Yes.

Mr. ROBINSON. Does the gentleman indorse that platform he is now standing on?

Mr. COLE. I indorse part of it, and part of it I repudiate. Mr. Speaker, here is the section on the income tax in the Democratic platform:

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

Now, Mr. Speaker, the gentleman from Arkansas contends that the Republican party is supporting this proposition at this time because it merely means postponement. What did the Democratic party mean when it inserted that plank in their platform? If that is a gold brick that the House of Representatives is handing out to the American public, who manufactured the gold brick? It had its origin in the Democratic platform at Denver, and was not constructed and foisted upon the country by the Republican party. So you cannot charge the Republican party with being guilty of attempting to postpone the coming of an income tax in that way. That proposition is charged up against the Democratic platform at Denver.

Now, Mr. Speaker, if I might presume upon the time of the House, I might add further, I am in favor, as I believe the Republican party everywhere is, of vesting this power in the Federal Government to be used as the President says, perhaps, in a crisis when it might save the life of the Nation. We have come upon times in our past history when it was necessary to resort to such methods of taxation, and it is not to be presumed that we will not meet with such crises in the future. If that time ever does come, when it is necessary to exercise this power, it is well to enact the necessary legislation at this time. It is well to submit it in an amendment to the people and have it incorporated as a section of the Federal Constitution, and we can rely upon it when the occasion demands. But if it is a subterfuge, as the gentleman from Arkansas contends, it was manufactured by the Democratic party.

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Mr. ROBINSON. I would like to ask the gentleman if he is in favor of the amendment proposed by the gentleman from Texas, which seeks to submit it to conventions rather than to learn it to the legislatures?

Mr. COLE. Well, Mr. Speaker, there are two methods, as I understand it, of submitting a constitutional amendment, and I think it better to submit it through the channels already established for that purpose.

Mr. ROBINSON. Does not the gentleman think if the amendment of the gentleman from Texas were adopted that the resolution would be adopted?

Mr. COLE. I might also say this, that every constitutional amendment to our Federal Constitution, as I understand, has gone through these regular channels and has been adopted by state legislatures instead of by public conventions called for that purpose.

Mr. ROBINSON. Will the gentleman yield to a further question? I will ask you a direct question, and you need not answer it unless you choose. Does not the gentleman think that the plan of submitting the resolution to the legislatures will result in certain failure, and does not the gentleman also think that in submitting it to conventions, as contemplated by the Henry amendment, it would result in the certain passage of the resolution?

Mr. COLE. Mr. Speaker, it will result in leaving it to the States to have their will.

Mr. ROBINSON. Which will be to defeat it. Now, another question.

Mr. COLE. Are you not in favor of the States exercising their judgment in this?

Mr. ROBINSON. I am in favor of getting an income tax, and the gentleman from Ohio is advocating a plan of submitting it in a way that it cannot become law. I am in favor of submitting it under a plan by which it will become law.

Mr. COLE. I am in favor of submitting this proposition in the method provided by the Constitution and the laws.

Mr. ROBINSON. Does not the Constitution provide both methods?

Mr. COLE. And we have the right of exercising our own judgment.

Mr. ROBINSON. And you say on one side that you want the income tax, and you will not vote for an amendment that will give you the income tax.

Mr. COLE. I am for the passage of this amendment in the only way that it has ever been done, and in the judgment of the best men the best way.

Mr. ROBINSON. Well, I am not undertaking to tell who are the best men. I think we are both good fellows, but differ very materially upon this.

Mr. LONGWORTH. I yield five minutes to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I am in favor of this resolution, and I expect to do my utmost to have the State of Alabama the first State in the Union to ratify the income-tax amendment. [Applause on the Democratic side.] It is impossible to state in the five minutes allotted to me the many weighty reasons that commend this measure to my judgment.

In the first place, it is part and parcel of the Democratic platform and carries out the Democratic doctrine of equal burdens. I do not know whether the amendment will be adopted as a result of this resolution, as the legislatures of only 12 States would be sufficient to defeat it. Indeed, I do not know whether Republican leaders --- some of them, at least --- have favored the resolution as a means of securing an income-tax law or of preventing such a law; but I think the unanimity of indorsement in both Houses of Congress is a full vindication of the righteousness of such a law, and the Republican adoption of this Democratic measure is a matter upon which the country is to be congratulated. The benefits of government are enjoyed and the work of government is carried on in large measure for the protection of citizens in the accumulation and use of wealth. The taxation of wealth, therefore, has been recognized by all nations a wise and just. Taxes upon incomes represent the least burdensome of all taxes on wealth, and the burdens decrease with the size of the income. There is perhaps one exception, an inheritance tax, and in this idea of equalization of burdens and hardships, I am in favor of both such taxes and of both such taxes in a graded form; that is, a graded income tax and a graded inheritance.

This measure, Mr. Speaker, takes us to the heart of the great eternal question of taxation, that remains with all civilized peoples as long as government last. There are two general classes of taxation, direct and indirect. As a rule, the direct form of taxation in America has been relegated to State, county, and city, and the indirect method has been largely adopted by the National Government. My investigations have convinced me, Mr. Speaker, that in a free country direct taxation is immeasurably better than indirect taxation.

I believe that this measure is a wise movement in the direction of substituting direct taxation for indirect taxation. I realize that it is easier for governments to raise money by indirect taxation, and for that reason the governments of the world have adopted that system generally. It is more irksome to collect a direct tax, and sometimes it seems to work a hardship upon the people taxed; but I believe that a patriotic people who control their own government are willing to pay the just taxes needed for its support, when economically administered. A prime advantage of the direct method is that the people know when they are being taxed. To-day I am sure that the great masses of the American people have not the slightest idea how many times in the day they are being taxed for all the comforts, conveniences, and necessities of life. If they were aware of the frequency, the magnitude, and scope of this taxation, they certainly would not submit to the greater part of it beyond one national election. If the people were fully informed on the taxation thereby imposed, they would not submit to such tariff schedules as have been in effect for many years and such as are now carried by the present bill.

Another prime advantage of a direct tax is that it enables a people to know how much they are being taxed, and only when they have such knowledge can they prevent abuse of the taxing power. To-day I do not believe our people have the slightest idea of the amount of taxation that is levied upon them. One, 2, 3 per cent is considered a sore burden, yet to-day our people are taxed 10, 20, even 30 per cent, and

do not know it. Still a third prime advantage of a direct tax is that we know where the tax goes. In the present juncture the bulk of the taxation of the American people does not go to the Government of the American people. I will illustrate: There are about 200,000 tons of pig iron imported into the United States in a year. The indirect tariff tax causes the Government to get the impost duty from 200,000 tons. The country consumes about 25,000,000 tons, the price of all of which is raised to the extent of the tariff. The net result is that the pig-iron tariff gives the tax on 200,000 tons to the Government and the tax on 24,800,000 tons to certain favored individuals, practically giving over to individuals the sovereign right of taxation that can only reside justly in the Government itself. When the people are taxed, they ought to know who gets the tax, and they would know under a system of direct taxation. A fourth prime advantage of direct taxation is that it would be more adjustable to the legitimate needs of the Government and it would tend to a more economical and efficient administration of the Government. When taxation is levied without a view to the needs of government, then at times there is liable to be a deficit in the National Treasury, in which case the credit of the Government may be shaken and panics may result, as has been the case more than once in our country's history.

At other times there may be a surplus, a surplus larger than necessary. Such a surplus being injurious to business, there is a tendency on the part of the Government to reduce it by enlarging expenditures, leading to policies of extravagance.

I realize that the expenses of the Government should naturally increase year by year with the growth of population and the work of government, but there have been increases in the expenditures of government in the last five or ten or fifteen years which are out of all proportion to such growth, due in large measure to the accumulation of the surplus under tariff laws.

I believe, Mr. Speaker, for these reasons that as a settled policy we should gradually work toward a substitution of direct taxation for indirect taxation in America. The result would be an enormous reduction in taxation, to the great relief of our people, in reducing the cost of living. We would know when we were being taxed how much we were being taxed, who was being taxed. The Government would then get the tax, and being held to stricter responsibility, the taxes would be adjusted to the needs of government, which, held to stricter accountability, would be more economically administered. [Applause on the Democratic side.]

Mr. LONGWORTH. I yield five minute to the gentleman from Michigan [Mr. DIEKEMA].

Mr. DIEKEMA. Mr. Speaker, the gentleman from Arkansas [Mr. ROBINSON], in one of his magnificent flights of eloquence, which do him such great credit and which also reflect credit upon this House in general, made this inquiry. Said he: "Whoever in all this country heard of a millionaire going to war himself?" Let me answer him that from the State of Michigan alone during the last Spanish war I know of at least two millionaires who went to war. Let me remind him of the fact that President Roosevelt's Secretary of the Navy, Mr. Truman H. Newberry, who is many times a millionaire, went to war.

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

Mr. DIEKEMA. Certainly?

Mr. ROBINSON. Let me ask, then, if those gentlemen were listed on the tax rolls at the time they went?

Mr. DIEKEMA. They were listed on the tax rolls, paid their taxes, and were millionaires. Let me tell the gentleman also that young James H. McMillan, also a millionaire, went to that war, did his full duty as a soldier, and lost his life from a dread disease there contracted. Thank God a man's patriotism in this country is not measured either by his poverty or his wealth, but by his Americanism. [Prolonged applause.]

Mr. ROBINSON. Mr. Speaker, I would like to state to the gentleman that I am perfectly willing to make the exception he has stated.

Mr. DIEKEMA. The gentleman will make further exception, for let me tell him further that Alger, Joy, Hendrie, and others, all sons of millionaires of the city of Detroit, in my State, were among the first to enlist in that war, and every one of them honored the uniform which he wore. Make another exception, my friend. There was no blood too blue, no wealth too great, no business too absorbing for the patriotic American to sacrifice for his country when the call to arms was sounded. What I have said of Michigan can be duplicated in every State of the Union. Let me tell you further that the most dangerous thing which

any statesman can do is to arouse class prejudice in this country. All men are entitled to equal consideration under the law, whether they are millionaires or whether they beg at the doors of millionaires.

Mr. ROBINSON. Will the gentleman yield further?

Mr. DIEKEMA. Certainly.

Mr. ROBINSON. I accept the gentleman's statement. But does he not think the millionaire ought to pay his share of the expenses of the Government in times of peace as well as in times of war?

Mr. DIEKEMA. Most certainly. If the gentleman from Arkansas will arrange the laws of his State as we have arranged the laws of our State, all property, whether corporate or individual, realty or any other form, will pay its just share of taxation.

Mr. ROBINSON. Have you an income-tax law in your State?

Mr. DIEKEMA. There is none. Let me say, further, Mr. Speaker, that generally the gentleman from Missouri, the learned judge, Mr. DE ARMOND, is logical and judicial in his expressions. I could hardly believe that the learned judge was speaking today when he said that it is the business of Congress, of the House and the Senate, to interpret the constitutionality of the bills which we present. That is true in the first instance; but it is not true after the Supreme Court has spoken, and that is the situation which confronts Congress to-day.

The fathers of the Republic, the authors of the Constitution, were most careful upon one proposition, and it was this: That the liberties of the people might be protected through giving to the executive, the judicial, and the legislative departments each its proper sphere of activity and action.

The Supreme Court has spoken; Congress has spoken. The Supreme Court has said that Congress passed a law that was unconstitutional. Congress acted within its sphere when it passed the law, and the Supreme Court acted within its sphere and within its powers when it said that that law was unconstitutional. That opinion confronts us to-day.

Mr. JAMES. Will the gentleman yield for an interruption?

Mr. DIEKEMA. I will.

Mr. JAMES. Does not the gentleman think that Congress has as much right to ask the Supreme Court to return to the precedents of that court of a hundred years' standing on the constitutionality of an income tax as the Supreme Court had a right to depart from those precedents?

Mr. DIEKEMA. When we pass a statute and the Supreme Court passes on the statute and says that that individual statute is unconstitutional, then we must bow to the power that has been given that department of the Government by the Constitution to interpret the laws which we pass. Any other doctrine is anarchy, and nothing else. [Applause on the Republican side.]

The power to levy an income tax should be possessed by Congress, for it may some time be needed to save the very life of the Nation. Let us then make it possible for the States to write the authorization into the Constitution. The Supreme Court now declares an income tax unconstitutional. It would not declare so then.

Why fly in the face of the Supreme Court and hold out a delusive hope to the people when the remedy is in our own hand? To do so would justly subject us to the charge of insincerity, and would probably leave the country without the needed revenue upon which we had depended.

In ordinary times reasonable duties levied on imports, together with the internal-revenue tax, ought to pay the running expenses of the Government. This was the conviction of the fathers. Extraordinary expenses may be taken care of by other means, but the revenues never should be so large as to tempt Congress to extravagance. There is a growing and very dangerous tendency on the part of our people to look to the Federal Government for all kinds of improvements which the States should make. This encourages extravagance and endangers our institutions. I am for the amendment because I believe it is a necessary power, but after it has been bestowed, I would always insist upon its most careful exercise.

Mr. HAMLIN. Mr. Speaker, when this bill was being considered in the House, I voted for a duty of 10 per cent ad valorem on hides, and on that vote I have been criticized by a few unfriendly newspapers. I do not rise to offer any apology for that vote. I believed then, and I believe even stronger now, that under the existing conditions I voted right.

That there may be no excuse for any misunderstanding of my position, I will repeat what I have often said heretofore, that if I could have my way about it I would gladly put hides, boots, shoes, harness, and in fact all of the products of leather, upon the free list, because I believe that with free hides the shoe and harness makers of this country could compete with the world without a dollar of tariff upon their products. However, I will not vote to put hides, the product of the farmer, on the free list, and thereby cheapen what

he has to sell, while your party, Mr. Speaker, keeps the tariff on shoes, harness, and all products of leather, thereby increasing the prices of those things which the farmer is compelled to buy.

The farmers constitute a very large majority of the real wealth producers of this country, and I undertake to say that no man with a proper regard for the truth will deny that no class of people has been as persistently discriminated against in tariff legislation as has the farmer. I am his friend, and I am proud of it. I was born and reared on the farm. I have plowed, I have planted, I have sown, I have reaped, and I know that the farmer literally "earns his bread in the sweat of his face," but I have never ceased to be thankful that I was born and reared on the farm. I naturally had, as my associates boys and girls situated as I was, whose hearts and minds had not become contaminated by the multitudinous sins which so often tempt the less fortunate boys and girls of our cities. I also had the advice and counsel of men whose lives had been spent in close communion with nature and nature's God; men who loved uprightness and integrity; who always expected to give full consideration for every dollar which they received. Therefore I believe that I know what the farmer wants, at least I know something of his condition and his relation to national legislation, and so long as I shall remain a Member of Congress I shall do what I can to see that he receives fair and equal treatment.

Now, Mr. Speaker, was my vote wrong on hides? Let us see. This bill carries a duty of 20 per cent ad valorem on boots and shoes and 40 per cent ad valorem on harness for the benefit of the manufacturer of these articles, and yet he is not satisfied, but wants hides put on the free list so that he may buy his raw material cheaper; and if we pass a law which enables the manufacturer of these articles to buy his raw material from the farmer cheaper than he buys it now, it must certainly follow that the farmer must receive less for what he has to sell, but it will not necessarily follow that the manufacturer will sell what he makes out of this raw material one penny cheaper. In fact, prior to 1897, when hides were on the free list, shoes were as high then as they have been since that time, and yet there has been a duty on hides of 15 per cent ad valorem since July, 1897.

Mr. Speaker, we must not get the question of raw material confused. What is raw material to one person is often the finished product of another. The leather is the raw material of the boot, shoe, and harness maker, but it is the finished product of the tanner. The hide is the raw material of the tanner, but it is the finished product of the farmer and cattle raiser. Now, if the manufacturer ought to have a tariff upon his finished product --- his shoes --- why ought not the farmer and the cattle raiser to have a duty on their finished products --- hides? But some people think that the shoe manufacturer ought to have a tariff on his finished product, because his capital is invested in his business. Do you forget, or is it a matter about which you are indifferent, that the farmer has his capital invested in his cattle and in his farm; that it costs him money with which to raise corn and hay to feed his cattle; that it costs him money to buy wire with which to fence his pastures, to say nothing of the fact that he works not only eight hours each day, but, in fact, from the early dawn of morning until the twilight of evening?

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Not only that, Mr. Speaker, but your party taxes the farmer on everything that he has to buy. He is taxed on his lumber out of which he builds his home; he is taxed on his nails and his shingles, his window glass, even down to the cement that enters into the foundation of his home. Nor does it stop here. He is taxed upon the furniture which he puts into his home, his carpets, his lace curtains, his cook stove and all kitchen utensils, his clothing, his farm implements, in fact, every necessity of life which he is compelled to buy, even to the caskets that contain all that is mortal of his loved ones. And yet the maw of the trust is not satisfied, but wants to take away from him the little negligible duty which he has on the hides of the cattle he raises. I confess, Mr. Speaker, that it now appears that this influence will be strong enough to succeed, and your party, as usual, unmindful of the interests of the farmer, will, when this bill becomes a law, put hides on the free list for the benefit of the leather trust, but you will not do so by the aid of my vote.

I repeat, let us take the tariff off of all leather and products of leather or else leave it on all, including the material out of which leather is made.

The statement is made by the leather trusts of the country that the packers, designated as the "meat trust," control the hide market of the country, and therefore hides ought to be put upon the free list in order to punish this trust. Mr. Speaker, I am sure that there is no man on the floor of this House who is more opposed to the trusts or who will go further than I to encompass their destruction, but I do not believe that the so-called "meat trust" controls the hide market of this country. But, if it does, I am sure that

the leather trust controls the leather market of the country; and if a vote for a tariff on hides is a vote in the interest of the meat trust, then I submit that a vote for free hides is a vote in the interest of the leather trust. So, on this proposition, a man would be "between the devil and the deep sea."

But what are the facts? The official figures, furnished by the department, show that there are annually marketed about 14,000,000 hides, exclusive of the hides of calves, goats, and sheep. Out of that number the so-called "meat trust" annually markets about 5,000,000 hides, leaving about 9,000,000 hides marketed each year by the farmers, independent packers, and butchers of the country. From these facts I do not see how it is possible for the meat trust to control the hide market, when they handle only about one-third of the hides of the country annually. But the leather trust of this country handles all of the leather made from all of the hides and will, if hides are put upon the free list, control the prices of all the hides of the country.

In the light of these facts we can easily see why this gigantic and pernicious leather trust is making such an herculean effort to get hides upon the free list. We can understand why this leather trust is maintaining this great propaganda, with their agents infesting the very corridors of this Capitol, sending out millions of circulars to the retailers of leather goods imploring them to "write your Congressman and Senator to-day to vote to put hides upon the free list." Many good men who are engaged in retailing leather goods, without stopping to give the matter careful consideration, give heed to this seductive appeal, believing that it will be to the interest of the consumer, and write us to vote to put hides upon the free list.

Mr. Speaker, a few days ago I received through the mails --- as I presume the other Members did --- a statement from the New England Shoe and Leather Association, of Boston, Mass., in which they make the remarkable and incongruous statement that a tariff duty on boots and shoes will not add one penny to the prices of shoes to the consumer, but that a duty of 15 per cent on hides would add from 25 to 50 cents per pair to the price of the shoes. And this statement is made in the face of the fact that the rate on hides in this bill is the same as the rate in the present law, which has been in existence since 1897.

A cursory glance at this statement will convince any reasonable man that it is not true, but must, of necessity, be absolutely false. To say that a duty of 15 per cent ad valorem on hides, which is no increase over the existing law, will increase the price of shoes from 25 to 50 cents per pair, but that a duty of nearly double that amount on shoes will not increase the price of that article to the consumers a penny, is ridiculousness run mad. In making this statement, the New England Shoe and Leather Association certainly presumed that the people of this country are fools, and that they could easily deceive them. Somebody is deceived in this statement, but it is not the people. This same leather association says that competition fixes the price of shoes. Then, if this be true a tariff on hides will only have the effect of giving to the farmer, who sells the cattle and hides, a small part of the profit which would otherwise go entirely into the pocket of the manufacturer.

I have no doubt, Mr. Speaker, but that with free hides our manufacturers of shoes and harness can, without a tariff, compete with the world; and therefore I say that if you take the tariff off of shoes and harness and other products of leather, I will gladly vote to put hides on the free list. But, I repeat, that so long as you keep the tariff on the products of leather, I shall vote for a tariff on hides, which the farmers and the cattle raisers produce.

I realize, Mr. Speaker, that if I had drifted with the tide and voted for free hides, I would no doubt have escaped criticism inspired by the leather trust, but I had my own idea of what was equitable, right, fair, and just and I had the courage of my convictions, and whenever, if I shall ever reach the point where I shall be afraid to vote as I believe that I should vote, I will despise myself and voluntarily retire to private life. But, knowing that I represent a courageous and intelligent people, I know that they want their Representative to have an opinion of his own and the courage of his convictions. I am sure that they would rather that their Representative should make a mistake sometime and, perhaps, vote wrong, rather than to have him be a mere echo with no opinions of his own. I shall continue to have the courage of my convictions and vote as I see the right. I may be accused of displaying bad judgment, but I will not lay myself open to the charge of being a coward.

Mr. DIXON of Indiana. Mr. Speaker, to the Israelites, overwhelmed with sufferings and afflictions, the voice of Divinity pointed the road to their deliverance. To the Republicans --- divided by internal dissension, awakened by the tremendous burdens of tariff taxation, faithless to the trust reposed by a forbearing people, and deaf to the promises made in its national platform, yet alive to the threatened rebuke of an outraged constituency --- the Democratic platform has pointed to the legislation upon which the party in power hopes to escape the disastrous defeat its broken promises and faithless betrayal of the people's

confidence have caused it to so richly deserve. The proposition of submitting the amendment to the Constitution for an income tax was taken boldly and bodily from the Democratic platform of 1908. That platform is as follows:

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

This is not the first instance in which the Republican party has purloined the principles and platform of the Democratic party in order to meet the demands of the American people. A few years ago President Roosevelt sent a message to Congress and succeeded in securing legislation for the regulation of railroad rates and enlarging the powers of the Interstate Commerce Commission. No such proposition had prior to that time ever been suggested or advocated by the Republican party in any of its conventions. But two successive Democratic conventions --- in 1900 and 1904 --- had declared for the proposition. The measure received the united support of the Democratic party, and was piloted through the Senate under Democratic leadership solicited by the President, in order to secure its passage over Republican opposition. If he had been half as true to the Democrats assisting him as they were to the cause, a better and stronger measure would have been enacted.

The Republican party claimed full credit for the measure, and it was its chief reliance for support in the succeeding campaign, although the measure had been popularized by Democratic discussion before it had been adopted by the Republican party. Now the same course is proposed in the pending resolution. The income tax has never been advocated by the Republican party since its repeal in 1872, never received respectful treatment in any of the conventions of that party, and it is only after the Democratic advocacy of this method of taxation has made it popular that this legislation is pressed to the bosom of Republican leaders who have always heretofore denounced it as anarchistic and unworthy of serious consideration by that party. It is a serious question whether their support is sincere or whether this is not a measure calculated to dispose of the issue without any intention of seeing the amendment carried. Will the leaders on the other side of the House pledge themselves to enter, when they return home, upon an earnest and active campaign to secure the immediate ratification of this amendment by the legislatures of their respective States? With the Democratic States almost certain to adopt this amendment, such is the influence of these Republican leaders with their people at home that their favorable action would assure the adoption of this amendment beyond the peradventure of a doubt.

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Up to date these leaders refuse to amend the tariff bill by adding an income-tax provision on the theory that it would be unconstitutional. Some of the best lawyers in and out of Congress agree that such an amendment would be constitutional, and so strong has grown the demand for this legislation that such an amendment would have been added in the Senate had not those opposed to the measure proposed a substitute in the nature of a corporation tax. The President strengthened the forces of those wishing to defeat the income tax by sending a message advocating and advising a corporation tax, which is a step toward our general income tax. Many who were opposed to both chose the latter as at least the safest course to beat the income tax.

At Columbus, Ohio, on August 19, 1907, Mr. Taft in an address said:

A graduated income tax would also have a tendency to reduce the motive for the accumulations of enormous wealth, but the Supreme Court has held an income tax not to be a valid exercise of power by the Federal Government. The objection to it from a practical standpoint is its inquisitorial character and the premium it puts on perjury. In times of great national need, however, an income tax would be of great assistance in furnishing means to carry on the Government, and it is not free from doubt how the Supreme Court, with changed membership would view a new income-tax law under such conditions. The court was nearly evenly divided in the last case, and during the civil war, great sums were collected by an income tax without judicial interference and, as it was then supposed, within the federal power.

When accepting the nomination of the Republican party as its candidate for President, July 28, 1908, less than one year ago, he said:

The Democratic platform demands two constitutional amendments, one providing for an income tax and the other for the election of Senators by the people. In my judgment an amendment to the Constitution for an income tax is not necessary.

At that time, and prior to the election, Mr. Taft did not think that an amendment to the Constitution for an income tax was necessary, and that "an income tax can and should be devised which under the decisions of the Supreme Court will conform to the Constitution."

The Democrats will give this resolution their united support but they think now, like Mr. Taft expressed himself less than a year ago, that an income tax can be devised without waiting for the tedious and uncertain result of submitting this amendment to the separate States, when a mere refusal to act by 12 States will result in its defeat.

The tariff-tax system has gradually turned over the earnings of the masses to the comparatively few favored individuals who are specially benefited by this system of taxation. This favored class would be compelled to contribute their share to the support of the Government by an income tax. The tariff tax is levied entirely upon consumption. The laboring man must expend his income for food, fuel, clothing, and tools of industry, and these taxes are heavier upon the necessities. The incomes of the rich escape federal taxation. Governments are constituted for the purpose of securing to mankind personal liberty, security, and the rights of private property. The Government protects the property of the rich and poor alike, and the former should pay their share toward supporting the General Government. In 1872 Senator Sherman said in the Senate:

A few years of further experience will convince the whole body of our people that a system of national taxes which rests the whole burden of taxation on consumption and not one cent on property or income is intrinsically unjust. While the expense of the National Government is largely caused by the protection afforded to property it is but right to require property to contribute to the payment of those expenses. It will not do to say that each person consumes in proportion to his means. This is not true. Everyone must see that the consumption of the rich does not bear the same relation to the consumption of the poor as the income of the one compares to the wages of the other. As wealth accumulates this injustice in the fundamental basis of our system will be felt and forced upon the attention of Congress.

The income tax is a measure of justice. The people will pay in proportion to their financial ability to pay. It will tax wealth in proportion to its abundance rather than poverty according to its necessities. Federal taxation is not levied upon the wealth of the country. It is imposed by way of taxes, internal-revenue duties levied upon liquors and tobacco used; and the import duties levied upon the clothing used and articles necessary for their comfort. The millionaires pay only on what they eat, drink, wear, and on what they use, and this is true of the poorer citizens likewise.

The wealthy man makes no other contribution to the support of the Government; nothing for the army which protects his wealth; nothing for the judiciary which settles his property rights; nothing to the support of the administrative department of the Government which executes the law that insures the safety of his property. They pay upon the necessities of life as the poor man does, and contribute more only as their necessities are larger. The Payne-Aldrich bill carefully forces from the latter a smaller contribution upon the articles which he uses than the articles used by his poorer neighbor.

It is not even suggested that wealth should pay all the taxes, but it is both reasonable and just that it should bear a portion, at least, of the public burden. It has ever been the pride of the Democratic party that it was the poor man's party and has ever fought for his rights. Our party has ever contended that the burdens of the Government should be at least partially shifted from the backs of the poor to those who can bear it; to divide these burdens between wealth and consumption; to divide them between the man who has nothing but his labor and the man who has incomes many times greater, derived from fortunes made by others; to compel the men who are wealthy by reason of tariff legislation to divide the burdens of the Government with the people whose earnings are compelled to flow by legislation to increase the wealth of the favored beneficiaries.

Our party would protect the poor and rich alike. We make no fight upon wealth. It should be protected to the same extent as the property of the poor. It will protect and guard the property of all, but it would never neglect the rights of the poor to satisfy the avarice of wealth, but would force all alike to contribute to the support of the Government that both may enjoy its blessings, and both should help carry its burdens. "Equal and exact justice to all."

The position of the Democratic party is that Government has not the right to levy taxes of any kind except for the support of the Government honestly and economically administered. That not a cent should be taken from the people but enough to pay the expenses of the Government, and especially should the burdens of taxation be not placed upon the many for the especial benefit of a favored few. Under the pernicious system of taxation provided in our Republican, tariff laws, the wealth of the country has gradually accumulated in the bands of the favored few.

This system has made millionaires from money drawn from all of the people. After the civil war the Republican party readjusted the system of taxation and relieved the rich by repealing the tax upon incomes and instead increased the taxes upon the poor. For every dollar that goes into the Treasury from the customs duties \$20 go into the hands of the beneficiaries of the law. The proposed Payne-Aldrich bill will not lessen those unjust and forced contributions, but will only increase the amount taken from the people.

Cooley in his work on taxation says:

Taking everything together, nothing can be more just as a principle of taxation than that every man should bear his share of the burdens of government in proportion to his wealth.

We had an income tax during the war, and its first collection was in 1863, when the amount collected reached two and three-fourths millions of dollars. That law provided for a tax of 3 per cent on all incomes over \$600 and not more than \$10,000, and 5 per cent on incomes above that amount. The law was amended several times during the war, and the largest amount collected in any one year was in 1867, when the amount was \$66,017,429.34. The total amount collected from the income tax was \$346,967,388.12. The law was finally repealed, and its repeal was the result of a united effort made by those who wanted high tariff rates and the main dependence of the Government to be upon its customs duties.

The Republican party had not then become the representative of organized wealth, and it had not yet become the servant of tariff beneficiaries. In 1894 the income tax was again ingrafted upon our statutes by a Democratic Congress, but it failed to receive the support of the Republican party, and was denounced as populist and socialistic.

The CONGRESSIONAL RECORD for June 28, 1894 (vol. 26, pt. 7, p. 6934), shows that every Republican Member of the present Senate who was in the Senate in 1894 voted to strike from the tariff bill the sections providing for an income tax. These Senators were ALDRICH, CULLOM, FRYE, GALLINGER, HALE, and PERKINS.

In the House were a large number of Members who are still serving here, and while the income-tax provision was not voted on as a separate proposition apart from the internal-revenue feature of the bill, yet none of the Republican Members now here recorded their votes in its favor.

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No Republican national platform ever declared for an income tax; no voice of approval or sympathy was ever uttered in their conventions. The proposition was denounced by every Republican speaker in the campaign of 1896. The Democratic party has consistently and uniformly advocated the enactment of an income tax. President Roosevelt, in a message to Congress December 3, 1906, said:

PRESIDENT ROOSEVELT'S MESSAGE OF DECEMBER, 1906.

* * * In addition to these there is every reason why when next our system of taxation is revised, the National Government should impose a graduated inheritance tax and, if possible, a graduated income tax. The man of great wealth owes peculiar obligation to the state, because he derives special advantages from the mere existence of government. Not only should he recognize this obligation in the way he leads his daily life and in the way he earns and spends his money, but it should also be recognized by the way in which he pays for the protection the state gives him. On the one hand it is desirable that he should assume his full and proper, share of the burden of taxation. Where the men who vote the tax pay but little of it, there should be clear recognition of the danger of inaugurating any such system save in a spirit of entire justice and moderation. Whenever we, as a people, undertake to remodel our taxation system along the lines suggested, we must make it clear beyond the peradventure of a doubt that our aim is to distribute the burden of supporting the Government more equitably than at present; that we intend to treat rich man and poor man

on a basis of absolute equality, and that we regard it as equally fatal to true democracy to do or permit injustice to the one as to do or permit injustice to the other. * * *

The question is undoubtedly very intricate, delicate, and troublesome. The decision of the court was only reached by one majority. It is the law of the land, and of course is accepted as such and loyally obeyed by all good citizens. Nevertheless, the hesitation evidently felt by the court as a whole in coming to a conclusion, when considered together with the previous decisions on the subject, may perhaps indicate the possibility of devising a constitutional income-tax law which shall substantially accomplish the results aimed at *The difficulty of amending the Constitution is so great that only real necessity can justify a resort thereto.*

It is estimated that the Government would derive \$80,000,000 from the Bailey-Cummins amendment if enacted into law. This amount could then be taken from the taxes now raised by tariff duties and the burdens of the people to that amount be lessened. The high protectionists oppose receipts from other sources than the tariff, since it lessens the amount to be derived from protective duties and is an opening wedge to the destruction of the monstrous high duties of their tariff laws. The people, once even partially relieved from excessive taxation, will not submit to its reestablishment, and, once in force as law, the income tax would remain.

It is very doubtful whether the amendment will ever be adopted; but as we cannot force the Republicans to add to the tariff bill an income-tax measure at once, we will support the joint resolution for the submitting of the question to the States as the only measure we can now secure from the leaders of the party in power. Their sincerity will be judged from their actions hereafter when the amendment comes for adoption before the legislatures of Republican States. A Democratic House of Representatives would add the income-tax amendment to the tariff bill to-day, and the aroused public sentiment would force enough Republican votes in the Senate to join with the Democrats to pass the same in that body. It is plain to see how the people's burdens would be lightened and their rights protected if our party had the votes to enact legislation.

Mr. ADAIR. Mr. Speaker, it had not been my purpose to add another line to the debate on the pending tariff bill. But, sir, I am so deeply impressed by the iniquitous provisions of the bill as it came from the Senate that in justice to myself and in justice to the constituency I represent I take this opportunity to offer my protest against its enactment into law. Four months ago Congress was called in extraordinary session to revise the tariff in pursuance of a sacred pledge made to the people by the party in power. The evil effects of the Dingley law were so apparent to everybody that its repeal was demanded by men of all parties. The duties fixed by that law were so high that it had not only resulted in building up gigantic trusts, controlling almost every line of business, piling up tremendous fortunes wrongfully taken from the pockets of the people, but it also had depleted the Government Treasury until we were facing a deficit of \$100,000,000.

The cost of the necessaries of life had soared so high that those who work for wages were ground down to a meager living. The small manufacturers all over the country were being driven to the wall by the trust combinations, and the people, finally awakened, demanded an honest revision of the tariff downward. All political parties in their platforms promised to carry out the demands of the people if entrusted with power. The President declared in the East and in the West that the tariff should be revised downward, and the people took him at his word and elected him to the highest office within their gift.

Now, Mr. Speaker, let us see what has been done toward a redemption of that pledge. We met on the 15th of March, and the House proceeded to consider a revision of the tariff, and those in charge, who evidently were not in sympathy with the President or the promises he had made, forced the bill through the House under a rule which prevented the offering of amendments, except as to four items, leaving nearly 4,000 items standing in the bill as fixed by the standpatters who comprise the majority of the Ways and Means Committee.

The Payne bill, as passed by the House, instead of being a revision downward, was a revision upward, and carried a higher average duty than the Dingley bill. While the bill was under consideration in the House, protests against its passage came from all parts of the country, and it was bitterly denounced by the Democratic as well as the Republican press from one end of the country to the other as being a travesty upon justice and a palpable violation of a party pledge made to the people. Instead of reducing the duties on the necessaries of life, in order that the burdens of taxation might fall more lightly on the poorer people, and increasing them on the luxuries consumed by the rich, the policy of those in charge seemed

to be to make the taxes as high as possible on the masses and as low as possible on the special interests.

It is a shame and a disgrace, Mr. Speaker, that under our system of taxation the poor laboring man who has a wife and four or five children to support contributes more toward the expenses of the Government than does the millionaire who is too proud to raise a family and has no one to clothe and feed except a wife and a poodle dog.

The State of New York has a tax commission, consisting of 15 members, and that commission has made a report showing that the wealthy class of that State only pay tax on \$1 out of \$30, while the poor man, who cannot cover up his property, pays tax on every dollar he is worth. There are no more loyal and patriotic people on earth than those who work for wages, and they are willing to pay their just share of the government expenses, but they do object to the wholesale discrimination against them through the enactment of legislation intended to confer special privileges on a class of people whose hearts are as hard as granite and whose milk of human sympathy is more bitter than gall.

Mr. Speaker, I hope I am not misunderstood. I am not an enemy of wealth. I want every man, rich and poor, old and young, high and low, to have the same opportunities and privileges and the same protection under the law. I have great admiration for the man who, through honesty, economy, ability, and progressiveness, accumulates a large sum of money, and under no consideration would I support a tariff bill which would tend toward striking down the industrial institutions of our country.

A large amount of capital in the hands of honest men with good intentions and purposes is a blessing to labor and a help to the country and to mankind. The fact is, modern civilization demands the employment of a large capital in carrying out our stupendous industrial enterprises. It is not the existence, but the abuse of capital that meets condemnation and denunciation and calls for remedial legislation. When combined capital in any hands abuses its legitimate powers, becomes oppressive, or assumes the form of monopolies, it becomes detrimental and dangerous to the Nation. It then affects injuriously every citizen, unless it be the few who fatten at the expense of the many. It then becomes greedy, extortionate, monarchical in its tendencies and practices, and not only controls the industrial field, but invades the political field as well, and the legislative halls, and seeks to corrupt both.

Mr. Speaker, I believe the future of this country depends on the enactment of legislation that will give equal rights to all men and special privileges to none. Under our present system of tariff taxation, and in the absence of effective antitrust legislation, stupendous trusts and combinations have sprung up, which have transferred a majority of the wealth of the country into the hands of a few people. There surely is much alarm in the fact that 4,000 men now own over 85 per cent of all the wealth of the country, and each one of the balance of the 90,000,000 people owns less than \$500 in property. The records show, sir, that 51 men, who have been the beneficiaries of special legislation, now own \$4,000,000,000 of this country's wealth. It is a lamentable fact that one thirty-fifth of the entire wealth of the United States is therefore concentrated in the hands of 51 men, and these men are to-day dictating the legislation of this special session of Congress.

Ah, Mr. Speaker, is not this a dangerous condition, and does it not demand the immediate attention of the American people? Every Member of this House must answer to his constituency; and let him be judged not by what others have done, but by what he himself has done. If he has shown by his vote during this special session of Congress that he is in sympathy with those who seek special privileges at the expense of the toiling millions, he does not deserve an indorsement by his constituency, and should be left at home, where he can do the country no harm, no matter from which political party he comes.

Mr. Speaker, while the bill was in the House I made the best effort I could, in my humble way, to secure an honest revision of the schedules, keeping in mind the rights of both the producer and the consumer. Every vote I cast was either a vote to lower the duty below the Dingley rate or to place the item on the free list. Not in a single instance did I vote to continue the Dingley rate or for a single increase; and I voted against the bill on its final passage for the reason that it was a revision upward instead of downward and was a violation of the pledge made to the people.

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The bill then went to the Senate; and that body has made it so much worse than the House bill that the people who denounced, rightfully and vigorously, the House bill would now be glad to see Congress adjourn and let the Dingley rates stand, vicious as they are. The Dingley bill was bad, the Payne bill was

worse, and the Aldrich bill is infinitely worse than either of them, and has justly aroused the indignation of the people, who were promised and expected relief from excessive taxation through a reduction of the schedules below the present rates.

Mr. Speaker, I heartily commend both Democrats and Republicans in the Senate who made a terrific fight for an honest revision, and I earnestly denounce both Republicans and Democrats who joined with Senator ALDRICH in the passage of a bill which is the most wicked of any tariff bill ever passed by an American Congress. I am exceedingly glad of the fact that only one Democratic Senator voted for the bill, and am also pleased to note that Senator BEVERIDGE was one of ten Republican Senators who voted against it, and assigned as a reason that it was a violation of a party pledge and an injustice to the American people. I was also pleased with the active interest taken by Senator SHIVELY toward the reduction of duties all along the line.

The action of the Senate in dealing with the tariff emphasizes the fact that we have too many millionaires in that body and that a few high-price funerals would be a good thing for the country. As I am informed, there are now in the United States Senate 38 millionaires representing over \$140,000,000. What can the people expect at their hands but legislation designed to aid the special-privileged class. I surely hope, Mr. Speaker, that the day will soon come when Senators will be elected by a popular vote of the people, and that the United States Senate will no longer be the dumping ground for millionaires, who have nothing in common with the plain people. The past twenty-five years has witnessed the enormous increase of individual and corporate fortunes in this country until the millionaire is no longer a rarity. This fact has served to develop the insolence and arrogance of wealth until intellectual endowments are dwarfed in its sordid presence and moral character lies prostrate in its ruthless path.

The power to rule men by intellectual and moral force, the test of statesmanship of a former day, is fast passing away, while wealth, the uncrowned king, oftentimes lacking both and coveting neither, arrogantly seeks to rule in a domain where it is only fitted to serve. Its altar has been erected in every community and its votaries are found in every household. Patriotism has given place to material expediency, and the love of country is supplanted by the love of money. An aptness for percentages and the successful manipulation of railroads and stock boards are often regarded as the most essential of senatorial equipments.

Mr. Speaker, there is another element more dangerous to the liberties of the people than that of individual wealth in its influence on the election of Senators. The wonderful growth of our country has been greatly accelerated by the combinations of wealth in corporate forms. These in their proper spheres are to be encouraged rather than condemned; but when they leave their legitimate fields of operation and seek to control, against the interests of the people, the legislation of the country, whether they be railroads, corporations or trusts, or combines, they will meet with the indignant protests of all true friends of the people.

The number of employees in their control, the concentration of great wealth in their treasuries render the advances most enticing and their approaches most insinuating. Their interests are guarded by the ablest men of each community, and, if public rumor to be true, they can lay their hands on representatives of the people in many of the legislatures and claim them as their own.

If the people dare to seek relief from their exactions, they are met by the agents of the corporations, who attempt to thwart them at every step. All that shrewdness, audacity, and money can suggest is readily at their command. The legislature is invaded, and the rights of the people give place to the exactions of corporate power, while he who can serve the corporations by his control of a legislature, by intrigue, artifice, or persuasion, against the demands of the people, is regarded in modern days as fully equipped for service in the United States Senate, where in that larger field his powers can be utilized for the benefit of the corporations he serves.

The standard for the exalted position of United States Senator is thus debased by corporate influence. The wire-puller and the intriguer are often preferred to the statesmen and the patriot, and the proud title of United States Senator has lost much of its power in the suspicions which lurk in the public mind as to the mode, conditions, and requirements of their selection.

Mr. Speaker, I hope the day will soon come when the United States Senate will be composed entirely of men who represent more loyalty and less wealth, more patriotism and less plutocracy; men who love their country more than their money. When that body is so made up, such tariff bills as the one we are now considering will never emanate from that end of the Capitol.

Mr. Speaker, the bill as it comes to us from the Senate will bear heavily on practically all the people, and especially those who work for wages. Senator LA FOLLETTE has shown that on clothing alone the people will be robbed of \$120,000,000 annually, and this is but one of a thousand items where similar extortions will be practiced. This bill will materially increase the cost of living all along the line, and those who are now struggling to make both ends meet will find their task still harder. Practically all the necessities of life are heavily taxed under this bill, and the burdens are heaviest on the cheaper class of goods consumed by the poorer people.

The cotton manufacturers are given a prohibitive duty and have an absolute monopoly on their finished product. On \$6.25 worth of cotton cloth, such as is used by the plain people, there is a tax of \$1.57; under the Dingley law 100 yards of unbleached sheeting was taxed \$4, while under this bill it is taxed \$6.06, and the same is true all through the cotton schedule. Three dollars worth of ordinary cotton stockings is taxed at \$1.65. While the cotton schedule is bad, the woolen schedule is worse. On a woolen suit of clothes costing \$15, there is a tax of \$6.80; 25 yards of worsted, valued at \$60, are taxed at \$7.10; 25 yards of cheap flannel, valued at \$8.75, are taxed \$5.25; \$7.50 worth of cheap woolen hats are taxed \$4.76, and so it goes all through the woolen schedule. These are only a few of the 4,000 items of the bill, but they show the extent Senator ALDRICH and his followers are willing to go for the benefit of the highly protected industries of the New England States. It is estimated by those who are in a position to know, that the duties carried in this bill will yield annually to the woolen manufacturers over \$100,000,000 in excess of what would be a fair profit; that the cotton schedules will enable the cotton manufacturers to charge \$90,000,000 each year for their products more than would be a reasonable profit; and that the manufacturers of hosiery and gloves will be able to charge as long as they can hold their breath without danger of foreign competition.

Mr. Speaker, you have sent this bill to conference without giving us the opportunity of voting against the Senate amendments, and what may we expect from the conference. Even if that committee had not been packed with "stand-pat" Members of both the House and Senate, the best we could expect would be a compromise between the Payne bill, which is a higher bill than the Dingley bill, and the Aldrich bill, which is 20 per cent higher than the Payne bill. To be sure, however, that but a few of the 847 Senate amendments may get away, the Speaker has appointed on the conference committee only those on the republican side who at all times have stood for the highest duties and who are in hearty sympathy with the Aldrich bill.

Instead of selecting the House conferees in the order of their seniority, as was done in the Senate, the Speaker ignored Representatives HILL, of Connecticut, and NEEDHAM, of California, who have stood for some reductions, and appointed Representatives CALDERHEAD of Kansas, and FORDNEY, of Michigan, who are "stand-patters" of the most pronounced type. Therefore it is safe to say that the bill as finally reported will be substantially the Aldrich bill, and the name of the Hon. SERENO E. PAYNE will forever be forgotten so far as tariff legislation is concerned. When the bill is finally acted upon, I shall vote against it, to the end that I may not be held responsible for such vicious legislation imposed on the outraged public.

Mr. Speaker, I shall watch with much anxiety the action of the President, who assured the country that the tariff should be revised downward. While I am exceedingly anxious to get away, yet if the President will veto this outrageous measure, I will gladly remain indefinitely and stand loyally by him until his pledge is fully and completely kept. If this bill becomes a law, the sugar trust will continue to rob the American people of \$55,000,000 annually, and the woolen manufacturers will continue to exact from the consumers over \$100,000,000 each year in excess of what is a fair profit; the United States Steel Company will continue to exploit the people of millions annually, while 400 trusts set out in Moody's manual will build up colossal fortunes wrung from the pockets of the working people.

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Mr. Speaker, on behalf of the laborer, who with his dinner bucket in his hand finds his way to his daily work, who will be compelled to pay more for the necessities of life, and who already has a hard time to feed and clothe his family, I protest against the passage of this bill. On behalf of 9,000,000 poor working girls, who will be compelled to pay more for their dresses, more for their hosiery and gloves, more for everything they wear, I earnestly protest against the passage of this unjust measure. In the name of the farmers, who will be compelled to sell on a free trade market and buy on a protected market, and in the name of the retail merchants all over the country, who will be compelled to pay more for what they buy

and charge more for what they sell, which will involve them in much embarrassment with their patrons, I now protest against the passage of this iniquitous measure and confidently hope the President will keep his plighted faith with the people and veto the bill.

The action of Congress, Mr. Speaker, is a keen disappointment to the American people, and especially to the toiling millions who were expecting at least partial relief from the burdens of excessive taxation.

Mr. CLINE. Mr. Speaker, I shall vote for the submission of the income-tax amendment to the Federal Constitution because I have always believed it to be one of the most equitable and just systems of taxation. In doing so, however, I incorporate with my vote my understanding of the present conditions surrounding the disposal of this measure. I very much believe the leaders of the Republican party in Congress are not sincere, and do not really want to amend the Constitution so that an income tax can be laid without doubt of its constitutionality.

Some of the most influential men in Congress, now asking that the proposed amendment be submitted, are known to be unalterably opposed to the imposition of an income tax. In my opinion the reason for the enthusiastic support this measure is receiving from leading Republicans, both in the Senate and the House, is to commit the country and Congress to the theory that Congress cannot now pass a valid income-tax law which the Supreme Court would uphold as constitutional, if required to pass upon it, and that therefore the amendment is necessary. That assumption would put the entire matter in abeyance for at least three or four years. Then, too, a submission of such an amendment would require three-fourths of the States to ratify it before it could become effective, and if the enemies of the income tax could defeat its ratification in 12 States the entire question would be forever put at rest.

Congress has been in session now four months devising measures to produce revenue to meet the ordinary expenses of the Government and at the same time protect the interest that have found especial favor at the hands of the Republican party and meet the deficit of nearly \$100,000,000. During all this time no man has risen in his place and denounced the income tax as an inequitable and unjust measure. No objection has been made to it, except that it was inquisitorial in character and should be applied only in times of great national stress. No man has dared to oppose it because it asks great masses of wealth, in most instances wrung from the people under an iniquitous high-tariff policy that no one subscribed to except the parties who are especially benefited by that policy, to pay their fair share of taxes.

I believe in an income tax because it taxes what a man really has. It taxes wealth, not want; accumulated possessions, instead of consumption. It responds to the ideal Democratic doctrine of taxation, viz., that taxes ought to be laid proportionately upon those who are best able to bear them. All taxes are burdensome, and when they are assessed so as to reach those who are best able to bear them they are then correctly apportioned. The very fact that both the House and the Senate added a new source of revenue to their respective measures is a confession that the general tariff bill finally framed would not produce sufficient revenue.

The doctrine that Congress had the power under the Constitution to lay an income tax was the theory and in part the practice of this Government for nearly one hundred years. There had been full acquiescence in the constitutional power of Congress to enact such legislation. The act of 1861 taxed incomes "derived from any kind of property or from any profession," and that act was amended in 1864 and at various intervals after till 1870. Its constitutionality was not questioned and it was a fruitful source of revenue. The decree of the Supreme Court of the United States declaring the income-tax law of 1894 unconstitutional surprised and shocked not only the legal fraternity of the land, but the great masses of the people, who had so long believed and acted upon the belief that the law was secure in its constitutional guaranty. That general opinion, with all due respect to the court, is still generally adhered to.

Public thought has naturally turned toward the theory of taxing incomes because of the magnitude of industrial and corporate fortunes that have escaped their share of the burdens. The ratio of investments in real and personal property has materially changed in two decades, the personal holdings being vastly greater than twenty years ago. The public mind, viewing with alarm the increasing power of these vast combinations of wealth and their threatened menace to our full and free enjoyment of our institutions, looked about not only for a remedy to prevent the possible evil influence, but to check the growth of these accumulations, and at the same time reach them for a fair share of the taxes they should justly contribute to their own support and that of the General Government.

I was in full accord with our President when he questioned the necessity of a constitutional amendment as declared in the Democratic platform adopted at Denver. The President, in his acceptance of the nomination for the Presidency by the Republican party on July 28, 1908, said:

The Democratic platform demands two constitutional amendments, one providing for an income tax and the other for the election of the United States Senators by the people. In my judgment the amendment to the Constitution for an income tax is not necessary.

This was not a conclusion hastily arrived at by the President; he had a year before spoken on this subject. On August 19, 1907, in an address delivered at Columbus, Ohio, he said:

A graduated income tax would have the tendency to reduce the motive for the accumulation of enormous wealth, but the Supreme Court has held an income tax not to be a valid exercise of power by the Federal Government. The objection to it from a practical standpoint is its inquisitorial character and the premium it puts on perjury. In times of great national need, however, an income tax would be of great assistance in furnishing revenue to carry on the Government, and it is not free from doubt how the Supreme Court, with changed membership would view a new income-tax law under such conditions. The court was nearly evenly divided in the last case, and during the civil war, great sums were collected by an income tax without judicial interference and, as it was supposed, under the federal power.

The income-tax law of 1894 was declared unconstitutional by a bare majority of the court, and in the decree all four of the judges dissenting filed opinions. The President, knowing the very narrow margin under which this opinion obtained, the circumstances under which it was rendered, the opinion of eminent judges that the decision was unsound, the changed personnel of the court, believed the question ought again to be submitted for review. So strong was he of the validity of an income-tax law, properly drawn, that he did not hesitate to say that the question should be again presented. Courts in all the States have reversed their opinions on important and momentous questions, and that without any reflection upon themselves. In view of the great difficulty involved in amending the Constitution, and justly so, too, would it not have been wise to have passed an income-tax law and asked the Supreme Court to again pass upon the question? If the court should deny to the federal power the authority, there would still be left to us the course we are now pursuing.

But, Mr. Speaker, the President did not insist upon an income-tax measure when he convened Congress in this extraordinary session. When the Ways and Means Committee submitted what was known as the "Payne bill," it included an inheritance tax, which it was said was included at the special instance and request of the President. The bill passed this body with that provision. After the bill was taken up in the Senate, the President of the United States sent a special message to Congress, suggesting the adoption of what is known as the "corporation tax," assessing all corporations 2 per cent on the net income of the corporation in excess of \$5,000. The Senate eliminated the inheritance tax and substituted the corporation tax. It is a matter of general knowledge that the leading members of the Finance Committee in the Senate are open and avowed enemies of the income tax, and that the acceptance of the corporation-tax feature for the inheritance tax as incorporated in the House bill was for the sole and only purpose of defeating the income tax. It was also reported in the press and among the Members of both Houses, and there has been no denial of the fact, that personally there was as much objection on the part of leading members of the Finance Committee to the corporation tax as there was to the income tax. Yet the upper House of Congress proposes to submit a constitutional amendment to the people in order to give Congress the authority to do what leading Senators declare they are opposed to.

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Can there be much speculation as to the purpose of submitting the proposed amendment? Not only can the 6 New England States that have grown "rich beyond the dream of avarice," contributed by the great Central West, with 6 other States that have enjoyed a partnership in the plunder, defeat the proposed amendment, but even though the full number of 12 States directly could not be induced to join in the defeat, opportunity is given to pack the senates of other smaller States having a very limited representation, so that it would not concur with the other legislative branch of the body and still defeat the amendment. I vote for the submission of this amendment, because I believe, as Congress is now constituted, it is the last chance to pave the way to some contributions from the great masses of wealth that do not now contribute to their own protection by the General Government. I do so, too, with the full knowledge of the scheme whereby the income-tax proposition has been betrayed into ambush by its pretended friends to be silently slaughtered by that quiet hand that is so subtle and at times so powerful in state legislatures. I

do so with the hope that the overwhelming force of public sentiment in the West will see to it that the purpose of those who are responsible for the plan will not accomplish the desired result.

For years the Democratic party has advocated the income tax as a just measure for raising revenue. It has developed public sentiment to such an extent that the Republican party that heretofore has vigorously denounced it now covertly espouses its adoption. Even if the Payne bill or the Aldrich bill would have furnished sufficient revenue, I would still be in favor of an income tax, because of the strong principle of justice and equity the proposition involves. I would enact a graduated income-tax law, reform the schedules in the dutiable list, lower the rates of duty on articles of common necessity, enlarge the free list, and lift the burden from the backs of the toiling millions of American citizens in part and place it on the pocket-books of the idle rich. Our wealth --- our congested wealth --- is so great and the expenses of the General Government so large that it seems to me we are bound to reform our sources of revenue.

For more than fifty years the income tax has grown in popular favor, not only in this country, but among the great powers of Europe. In England, France, Germany, Austria, Switzerland, Italy, the Netherlands, and even in the new possession of Hawaii an income tax has become a fixed and settled feature of their taxing policy. In England the Government has for more than sixty consecutive years collected an income tax, the last year the amount from that one source alone being more than \$165,000,000.

When the British income tax was first laid, the revenue derived from the same was used to reduce by so much the protective duties against importations of general use, thereby forcing great accumulations of wealth to pay a share of the cost of their protection and removing, in part, the burdens of taxation from the poor.

Reference has been-made by the chairman of the Ways and Means Committee to the argument of Mr. Gladstone, who, like the chairman, was an enemy of an income tax, in which Mr. Gladstone said he was opposed to the income-tax law because it would make a "nation of liars." This statement is quoted with approval as a forceful argument by the chairman against the income tax. The distinguished gentleman ought to be told that Mr. Gladstone in 1874 dissolved Parliament and appealed to the people, promising them if he were returned to power he would abolish the income-tax law. On a square presentation of the issue Mr. Gladstone and his party were crushed with humiliating defeat. The income tax has been retained and is now a permanent factor in the revenue system of the country. Can it be possible that because a man will lie about his property possessions he should not be taxed? John Sherman said: "All taxes are inquisitorial, and the income tax is least so of any system." What is the trend of public thought in this country with reference to this question? More than 40 States in fifteen years have appointed commissions to examine and inquire into the constitutional provisions of sister States, with reference to their methods of producing revenue. Thirteen States have amended their constitutions so as to remove all question of their authority to tax incomes. The increasing popularity of this equitable and just system cannot be diverted; it conduces to a fair and equitable distribution of the burdens, and is based upon the universally accepted principle of taxation, that in addition to the tax on articles of consumption there should be a direct tax on incomes, properly graduated. In all the changes of fifty years in our economic and industrial conditions, establishing new alignments of wealth, new forms of investments by which the wealth of society is produced and distributed, the income tax has met with no new arguments against it. Always and everywhere when the demand for greater justice in the distribution of the burdens of taxation has arisen, the income tax has been resorted to. In this country of ours with the greatest commerce, both internal, and external, the greatest wealth, the greatest opportunity for expansion of our natural resources, why should we not reach these colossal fortunes and combinations for some support of the Government in whose system of taxation they have found so much favor?

Gentlemen oppose an income-tax law because of its inquisitorial character. Ascertaining the basis of any system of taxation is of necessity inquisitorial, and yet these same gentlemen advocate a corporation-tax law whose chief merit is the authority it gives the Government to invade the privacy and pry into and spy upon the business and methods of corporations with an army of inquisitors. The alleged income tax is abandoned in the Senate for one reason, viz., that Congress could not enact a law that would withstand a constitutional attack; but at the same time the Senate substitutes a corporation tax, labeled "a special excise tax," that, in the opinion of many distinguished lawyers both in the House and Senate, contains the same provisions that made the law of 1894 vulnerable in the Pollock case. Aside from the question of whether the present corporate amendment --- the "special excise-tax" law --- contains the elements of every just tax system --- elements essentially necessary --- equality in the distribution of the burdens it imposes, may not the legislator inquire whether or not as a permanent policy the General Government

ought to be permitted to reach out to these local corporations, creatures of purely state legislation, and take from the States this source of revenue? Upon what theory may the Federal Government inquire into the private business of a purely local corporation, not doing or attempting to do an interstate business, but acting under the limitations of a state statute that created it, fixed its rights, powers, duties, and obligations? If the Federal Government may put its hand into the treasury of the corporation, divide its profits between the company and the Government, in defiance of state law, why may it not go further and limit and define the powers and duties of the corporation, fix the character of its operations and expenditures, restrict the state legislature in the privileges it may confer in a corporate act, and the judiciary of the State in its construction? If the federal power is to be permitted to override state boundary lines, subtract from the States their means of income, may it not continue to take more and more, till the recognized, separate, and independent rights of the States become a mere fiction? This condition deserves serious consideration. The strong, and, I may say, an almost irresistible, tendency in a representative government is toward a centralized power in the federal head. It cannot but alarm all those who understand the preservation of the rights of the States to all those powers not especially delegated under the Constitution to be material and necessary to our perpetuity. A century has given these independent sovereigns that compose this federation those separate rights and functions that demand our respect and protection.

It has been said that the people are prejudiced against corporations. This is not correct. They are prejudiced against trusts and combinations that crush competition and dominate legitimate line of business for their own selfish purposes. Almost every kind of business in every community is carried on by local corporations. They are an indispensable agency in conducting the business of the country. They furnish a means for investment by thousands of persons with small capital. Local corporations do not shrink from the payment of taxes, but they want no favoritism shown in apportioning the burden, and no discrimination made between classes of persons engaged in the same identical business, nor between classes, differently organized and competing for the same business.

I would vote for a corporation-tax amendment, properly drawn, if I could do so without my vote counting for the passage of the present unequal and unjust tariff measure now before Congress. I would do so only when the law taxed all corporations and all associations equally, especially when engaged in the same line of business, without discrimination. I would vote under those conditions for a temporary measure, because I believe it is my first, highest, and most patriotic duty with my vote to relieve the present embarrassment of the Government of ninety millions of deficit and the deficit that will occur during the next two years rather than consent to an issue of bonds, and not that I believe a corporation tax can be drawn free from all objections, or that it is an ideal measure of taxation or wholly free from constitutional doubt. I would do so, too, believing that speedy and just legislation would follow to remove, even in a temporary measure, as far as possible, the inequalities hidden in the law.

It has been said that the publicity feature of the bill will enable the Government to circumscribe the operations of the combinations and give the independent corporation a more favorable opportunity for trade. Exactly the opposite must be the result. A knowledge of the business, capital invested, indebtedness, customers of the small independent corporation struggling with the trust monster for a foothold in the trade of the country will always in some way be available to the trust, thereby giving it the means to drive its independent rival out of business and make the field of the trusts' operations wider and less restricted -- its mastery more complete.

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If we accord entire good faith to the authors of the Aldrich-Payne bill, they have raised the duties so high on so many articles of common consumption that all competition has been destroyed. In the language of the distinguished Senator from Iowa [Senator CUMMINS], "complete, substantial, and effective competition is no longer a factor in American commerce." No man in all this tariff discussion has uttered a more pungent truth than this same Senator when he said "the rights of the consumer of any article or commodity to competition is dearer and higher and more sacred than the right of the producer to protection." This competition, which of right belongs to every American citizen, is in the iron grasp and safe-keeping of the manufacturers of New England. The Aldrich bill has intrenched them behind a tariff wall that leaves ninety millions of consumers to their tender mercies. It has levied a rate of tribute on the dwellers in the Mississippi Valley and given them power to collect it. Out of the honesty and industry, the thrift and economy of the merchant, the farmer, the mechanic, the day laborer must come the tax money

of the manufacturer. If I had the power, I would relieve the people from the clutch of greed and avarice, from their commercial thralldom; I would pass a graduated income tax, reduce the duties on articles of necessity, and lighten the burdens of the poor. [Applause.]

The SPEAKER. The time for debate has expired; all time has expired.

Mr. HENRY of Texas. Mr. Speaker, I desire to have my amendment submitted, and ask that it be reported from the Clerk's desk.

Mr. PAYNE. I make the point of order, Mr. Speaker, that no amendment is in order.

Mr. HENRY of Texas. I want to be heard on the point of order.

The SPEAKER. The gentleman from New York makes the point that no amendment is in order. The Chair is ready to rule, but out of courtesy will hear the gentleman from Texas briefly.

Mr. HENRY of Texas. I desire to make a statement in regard to the amendment.

The SPEAKER. The Chair hopes that the gentleman will confine himself to the point of order, which is that the joint resolution, under the order made by unanimous consent, is not amendable.

Mr. HENRY of Texas. I shall confine myself strictly to the point of order, and it is upon that which I desire to be heard. Mr. Speaker, my amendment is to strike out the following words in lines 5 and 6 of the joint resolution, "when ratified by the legislatures of three-fourths of the several States," and insert "when ratified by convention in three-fourths of the several States."

Now, Mr. Speaker, upon the convening of Congress this morning the gentleman from New York [Mr. PAYNE] asked unanimous consent that this resolution be taken up and considered until 4 o'clock, and at that time, to wit, 4 o'clock, the House should proceed to vote upon the resolution.

There was no objection to that agreement, and therefore the House agreed that it would consider the amendment until 4 o'clock and then vote upon it. There was nothing said in regard to any amendment to the amendment that might be offered, and hence if the original proposition was subject to amendment at first it is now undoubtedly subject to amendment. What action has this House taken to prevent an amendment to the amendment? Absolutely none.

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

Mr. HENRY of Texas. I will yield to the gentleman from Illinois.

Mr. MANN. Under the ordinary practice at this stage of the proceedings there would be a motion or demand for the previous question.

Mr. HENRY of Texas. Yes.

Mr. MANN. Does not the gentleman think it fair to consider that the unanimous-consent agreement takes the place of the previous question, in order that the House might have a longer time for debate, and that at the end of that time the House proceed to a vote as though the previous question had been ordered?

Mr. HENRY of Texas. I agree to that, and am glad the gentleman asked the question and to know that he agrees with me.

Mr. MANN. The previous question would shut off the gentleman's amendment.

Mr. HENRY of Texas. Not at all. I have studied the question, and I want to make a statement about it now. We agreed that we would vote at 4 o'clock, which superseded a motion for the previous question, and such action certainly cannot be construed as tantamount to ordering the previous question. There was not an agreement that this amendment should not be amended. There was nothing standing in the way of an amendment to an amendable proposition whenever the time came to vote upon it, and the previous question not having been demanded, such demand has long since been waived. I hope that answers the gentleman's proposition.

Mr. MANN. Well, it seems to me quite the reverse. I thought the gentleman and I agreed that the unanimous-consent agreement practically amounted to ordering the previous question.

Mr. HENRY of Texas. No; I did not say that it was tantamount to ordering the previous question, but only superseded the previous question and took it out of the power of anyone to call for it or the House even to order the same.

Mr. MANN. You could not take it out of the power to demand the previous question unless it was considered in effect ---

Mr. HENRY of Texas. If it was properly demanded under the rules. But here, where we agreed to vote at 4 o'clock on this amendment, it could not at that time appropriately supersede such order.

Mr. MANN. The agreement to vote at 4 o'clock is certainly equivalent exactly to the previous question being ordered, because the previous question, after it is ordered, is simply that you vote at once, at a certain time.

Mr. HENRY of Texas. Now, Mr. Speaker, I gave notice early in the debate that at the proper time I should offer this amendment, and understood from the Chair that there should be proper opportunity to submit the amendment. Here we have only agreed to vote at 4 o'clock. We have not agreed in any way to preclude any amendment to this amendment. Therefore I say that it is clearly within the rule when I stand here now and offer my amendment.

Mr. JAMES. I suggest to the gentleman that when he gave notice he would offer the amendment there was nothing said by the gentlemen on the other side about the previous question.

The SPEAKER. The Chair begs the gentleman's pardon. The Chair called the attention of the gentleman to the condition of the order made by unanimous consent, so, so far as the Chair is concerned, the Chair is not embarrassed by any judgment by confession touching the matter.

Mr. HENRY of Texas. The Chair is not "embarrassed," and neither am I embarrassed; but as a Member of this House I only desire that this matter be fairly submitted for the consideration of the membership, and while the Speaker is in such a "fair" and "unembarrassed" state of mind I believe he will be constrained to rule that nothing has been done which prevents our now voting upon this amendment to the amendment.

I hope that there is nothing in the Chair's present "amiable mind" that will prevent him giving a just ruling, as this manifestly would be, on this occasion, the previous question not having been moved, and nothing but an agreement to vote at 4 o'clock, after a consideration of the bill until that time, having been entered into by the House of Representatives. And also, according to the rules of this House, and in accord with logic and right reasoning, we are at this instant entitled to a vote upon my proposition. And I ask that the Chair rule with me on this just proposal and meritorious amendment and authorize the House to vote whether or not the Senate resolution shall be changed in the way suggested by me. [Applause on the Democratic side.]

The SPEAKER. The Chair will rule in this case according to the order of the House, whatever the consequences of that ruling may be. It is not the office or the duty of the Chair to disobey the rules of the House upon one hand as its presiding officer, or set aside the order upon the other. Now, what is the situation? In a colloquy between the gentleman from New York; [Mr. PAYNE] and the gentleman from Missouri [Mr. CLARK] as to time for discussion upon this joint resolution it was agreed, in substance, that general debate should be closed upon the resolution at 4 o'clock, at which time a vote should be taken upon the joint resolution. Now, then, in the opinion of the Chair, that is equivalent to the previous question, by unanimous consent, and if there was no such thing as the previous question under the rules of the House an agreement made by unanimous consent that a vote shall be taken upon a joint resolution at a given time would only be dispensed with by the same unanimous consent, in the opinion of the Chair, that made the agreement; so that the agreement operates as the previous question, and was something more than the previous question, because under that agreement, made by unanimous consent, in the opinion of the Chair it would require unanimous consent to unmake it. Therefore the Chair must hold that the point of order is well taken upon the amendment.

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Mr. HENRY of Texas. Always desiring to be perfectly fair with the Speaker, and regretting that after a diligent search I cannot find any authority to sustain him on this occasion, I feel constrained to respectfully appeal from the decision of the Chair.

The SPEAKER. The gentleman from Texas appeals from the decision of the Chair.

Mr. PAYNE. Mr. Speaker, I make the point of order that the House having determined to vote at 4 o'clock, this appeal is dilatory.

The SPEAKER. The Chair is not prepared to hold that the appeal is dilatory. If there is any doubt in the premises, we will solve it in favor of entertaining the appeal.

Mr. PAYNE. I move to lay the appeal on the table.

The SPEAKER. The gentleman from New York moves to lay the appeal on the table.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. HENRY of Texas. Division, Mr. Speaker; and to save time I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were --- yeas 186, nays, 144, answered "present" 2, not voting 55, as follows:

YEAS -- 186

Alexander, N. Y.	Ellis	Kennedy, Iowa	Perkins
Allen	Elvins	Kinkaid, Nebr.	Pickett
Ames	Englebright	Knapp	Plumley
Anthony	Esch	Knowland	Pratt
Austin	Fish	Kopp	Pray
Barchfeld	Focht	Kronmiller	Prince
Barclay	Foelker	Kustermann	Reeder
Barnard	Fordney	Langham	Reynolds
Bartholdt	Foss	Langley	Roberts
Bates	Foster, Vt.	Law	Rodenberg
Bennet, N. Y.	Foulkrod	Lawrence	Scott
Bennett, Ky.	Fuller	Lenroot	Sheffield
Boutell	Gaines	Lindbergh	Simmons
Bradley	Gardner, Mass.	Longworth	Slemp
Brownlow	Gardner, Mich.	Loud	Smith, Cal.
Burke, Pa.	Gardner, N. J.	Loudenslager	Smith, Iowa
Burke, S. Dak.	Gillett	Lowden	Smith, Mich.
Burleigh	Goebel	Lundin	Snapp
Butler	Good	McCreary	Southwick
Calderhead	Graff	McKinlay, Cal.	Stafford
Campbell	Grant	McKinley, Ill.	Steenerson
Capron	Greene	McKinney	Sterling
Cassidy	Gronna	McLachlan, Cal.	Stevens, Minn.
Chapman	Guernsey	McLaughlin, Mich.	Sturgiss
Cocks, N. Y.	Hamer	McMorran	Sulloway
Cole	Hamilton	Madison	Swasey
Cook	Hanna	Mann	Tawney
Cooper, Pa.	Haugen	Martin, S. Dak.	Taylor, Ohio
Cooper, Wis.	Hawley	Miller, Kans.	Tener
Coudrey	Hayes	Miller, Minn.	Thistlewood
Cowles	Henry, Conn.	Mondell	Thomas, Ohio
Creager	Higgins	Moon, Pa.	Tilson
Crow	Hill	Morgan, Mo.	Tirrell
Currier	Hinshaw	Morgan, Okla.	Townsend
Dalzell	Hollingsworth	Morse	Volstead
Davidson	Howell, N. J.	Murdock	Vreeland
Davis	Howland	Murphy	Wanger
Dawson	Hubbard, Iowa	Needham	Washburn
Denby	Hubbard, W. Va.	Nelson	Weeks
Diekema	Hughes, W. Va.	Norris	Wheeler
Dodds	Hull, Iowa	Nye	Wiley
Douglas	Humphrey, Wash.	Olcott	Wilson, Ill.
Draper	Johnson, Ohio	Olmsted	Wood, N. J.
Driscoll, M. E.	Joyce	Parker	Woods, Iowa
Durey	Kahn	Parsons	Young, Mich.
Dwight	Kelfer	Payne	
Edwards, Ky.	Kendall	Pearre	

NAYS --- 144

Adair	Cline	Godwin	Korbly
Adamson	Collier	Goldfogle	Lamb

Aiken	Covington	Gordon	Lassiter
Alexander, Mo.	Cox, Ind.	Graham, Ill.	Latta
Ansberry	Cox, Ohio	Gregg	Lee
Ashbrook	Cravens	Griggs	Lever
Barnhart	Cullop	Hamill	Livingston
Bartlett, Ga.	De Armond	Hamlin	Lloyd
Beall, Tex.	Dent	Hammond	McDermott
Bell, Ga.	Denver	Hardwick	McHenry
Boehne	Dickson, Miss.	Hardy	Macon
Booher	Dies	Harrison	Maguire, Nebr.
Borland	Dixon, Ind.	Heflin	Martin, Colo.
Bowers	Driscoll, D. A.	Helm	Maynard
Brantley	Edwards, Ga.	Henry, Tex.	Mays
Broussard	Estopinal	Hobson	Moon, Tenn.
Burgess	Ferris	Houston	Moore, Tex.
Burleson	Finley	Hughes, Ga.	Morrison
Burnett	Flood, Va.	Hughes, N. J.	Moss
Byrd	Floyd, Ark.	Hull, Tenn.	Nicholls
Byrns	Gallagher	Humphreys, Miss.	O'Connell
Candler	Garner, Tex.	James	Oldfield
Cantrill	Garrett	Jamieson	Padgett
Carlin	Gill, Md.	Johnson, Ky.	Palmer, A. M.
Carter	Gill, Mo.	Jones	Peters
Clark, Fla.	Gillespie	Keliher	Pou
Clark, Mo.	Gilmore	Kinthead, N. J.	Pujo
Clayton	Glass	Kitchin	Rainey
Randell, Tex.	Saunders	Smith, Tex.	Thomas, Ky.
Ransdell, La.	Shackleford	Sparkman	Thomas, N. C.
Rauch	Sharp	Spight	Tou Velle
Richardson	Sheppard	Stanley	Underwood
Robinson	Sims	Stephens, Tex.	Wallace
Rothermel	Sisson	Sulzer	Watkins
Rucker, Mo.	Slayden	Taylor, Ala.	Webb
Sabath	Small	Taylor, Colo.	Wickliffe

ANSWERED "PRESENT" 2

Bartlett, Nev. Foster, Ill.

NOT VOTING --- 55

Anderson	Garner, Pa.	Lovering	Rhinock
Andrus	Goulden	McCall	Riordan
Bingham	Graham, Pa.	McGuire, Okla.	Rucker, Colo.
Calder	Griest	Madden	Russell
Cary	Hay	Malby	Sherley
Conry	Heald	Millington	Sherwood
Craig	Hitchcock	Moore, Pa.	Sperry
Crumpacker	Howard	Morehead	Talbott
Ellerbe	Howell, Utah	Mudd	Weisse
Fairchild	Huff	Page	Willett
Fassett	Johnson, S. C.	Palmer, H. W.	Wilson, Pa.
Fitzgerald	Kennedy, Ohio	Patterson	Woodyard
Fornes	Lafean	Poindexter	Young, N. Y.
Fowler	Lindsay	Reid	

So the motion to lay the appeal on the table was agreed to.

The following pairs was announced:

Until further notice:

Mr. CALDER with Mr. REID.
Mr. KENNEDY of Ohio with Mr. TALBOTT.
Mr. CRUMPACKER with Mr. ANDERSON.
Mr. GRIEST with Mr. ELLERBE.
Mr. HENRY W. PALMER with Mr. WEISSE.
Mr. BINGHAM with Mr. SHERLEY.
Mr. HOWELL of Utah with Mr. LINDSAY.
Mr. MADDEN with Mr. RUSSELL.
Mr. MALBY with Mr. SHERWOOD.
Mr. SPERRY with Mr. CRAIG.
Mr. HUFF with Mr. HITCHCOCK.
Mr. YOUNG of New York with Mr. WILSON of Pennsylvania.
Mr. WOODYARD with Mr. WILLETT.
Mr. MUDD with Mr. RUCKER of Colorado.
Mr. MOOREHEAD with Mr. RHINOCK.
Mr. MOORE of Pennsylvania with Mr. PATTERSON.
Mr. MILLINGTON with Mr. PAGE.
Mr. McGUIRE of Oklahoma with Mr. LEVER.
Mr. LOVERING with Mr. JOHNSON of South Carolina.
Mr. LAFEAN with Mr. HOWARD.
Mr. GRAHAM of Pennsylvania with Mr. GOULDEN.
Mr. GABNER of Pennsylvania with Mr. FORNES.
Mr. FAIRCHILD with Mr. FITZGERALD.
Mr. CARY with Mr. CONRY.
Mr. ANDRUS with Mr. RIORDAN (transferable).
Mr. FASSETT (for) with Mr. BARTLETT of Nevada (against).

On this vote :

Mr. McKINLEY of Illinois (favor) with Mr. FOSTER of Illinois (against).

Mr. HENRY of Texas. Mr. Speaker--

The SPEAKER. For what purpose does the gentleman rise?

Mr. HENRY of Texas. After the announcement of the vote.

The vote was then announced as above recorded.

Mr. HENRY of Texas. I offer the following motion, to recommit with instructions, under the rule adopted on the 15th day of March of this year.

Mr. PAYNE. I call for the regular order.

Mr. HENRY of Texas. It is the regular order under the rule.

The SPEAKER. The Chair suggests to the gentleman that that motion will be in order after the third reading of the joint resolution.

Mr. HENRY of Texas. Well, I only want to save the point; I do not want to waive anything.

The SPEAKER. The question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading, and it was accordingly read the third time.

Mr. HENRY of Texas. Now I offer the following motion, to recommit with instructions.

The SPEAKER. Is the gentleman an opponent of the joint resolution?

Mr. HENRY of Texas. I am opposed to it as long as there is any chance under the rules to amend it and make it a better proposition; and the Chair, according to the press and otherwise, has announced that that rule would be liberally construed.

The SPEAKER. "After the previous question shall have been ordered on the passage of a bill or joint resolution, a motion to recommit shall be in order; and the Speaker shall give preference of recognition for such purpose to a Member who is opposed to the bill or joint resolution."

Mr. HENRY of Texas. Nobody else is making any motion.

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The SPEAKER. That is for the Chair to find out first.

Mr. HENRY of Texas. I appeal to the Chair for information.

The SPEAKER. Is there any Member opposed to this joint resolution?

Mr. GARDNER of Massachusetts. Mr. Speaker, I am opposed to the joint resolution, and move to recommit.

The SPEAKER. The gentleman moves to recommit the joint resolution.

Mr. GARDNER of Massachusetts. And on that I move the previous question.

The SPEAKER (continuing). To the Committee on Ways and Means, and on that moves the previous question.

Mr. HENRY of Texas. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HENRY of Texas. Under your own rules, does not my motion take precedence?

The SPEAKER. No; this is a motion to recommit.

Mr. HENRY of Texas. Another parliamentary inquiry. Mine is a motion to recommit with instructions. Does not a motion to recommit with instructions take precedence?

The SPEAKER. But the gentleman moves the previous question upon his motion to recommit to the Committee on Ways and Means. That motion is in order.

The question was taken, and the previous question was ordered.

The question was taken on the question to recommit, and it was rejected.

The SPEAKER. The question is on the passage of the joint resolution.

Mr. HULL of Tennessee. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HULL of Tennessee. I desire to inquire of the Chair whether, under Article V of the Constitution, the Chair holds that the affirmative action of two-thirds of the membership of this House is necessary to pass this resolution?

The SPEAKER. By consent, the Chair will have the decisions read. The decisions and precedents are many, both in the House and' in the Senate. Without objection, the Clerk will read.

The Clerk read as follows:

7027. The vote required on a joint resolution proposing an amendment to the Constitution is two-thirds of those voting, a quorum being present and not two-thirds of the entire membership. On May 11, 1898, Mr. John B. Corliss, of Michigan, called up the Joint resolution (H.J. Res. 5) proposing an amendment to the Constitution providing for the election of Senators of the United States.

The question being taken on the passage of the resolution, there were --- yeas 184, nays 11; and the Speaker announced that the joint resolution was passed, two-thirds having voted in favor thereof.

Mr. EBENEZER J. HILL, of Connecticut, called attention to this clause of the Constitution:

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments," and made the point of order that the vote required was two-thirds of the entire membership --- not two-thirds of a quorum.

The Speaker said:

"The question is one that has been so often decided that it seems hardly necessary to dwell upon it. The provision of the Constitution says ' two-thirds of both Houses. What constitutes a House? A quorum of the membership, a majority --- one-half and one more. That is all that is necessary to constitute a House to do all the business that comes before the House. Among the business that comes before the House is the reconsideration of a bill which has been vetoed by the President; another is a proposed amendment to the Constitution; and the practice is uniform in both cases, that if a quorum of the House is present the House is constituted, and two-thirds of those voting are sufficient in order to accomplish the object. It has nothing to do with the question of what States are present and represented or what States are present and vote for it. It is the House of Representatives in this instance that votes and performs its part of the function. If the Senate does the same thing, then the matter is submitted to the States directly, and they pass upon it.

"The first Congress, I think, had about 65 Members, and the first amendment that was proposed to the Constitution was voted for by 37 Members, obviously not two-thirds of the entire House. So the question seems to have been met right on the very threshold of our Government and disposed of in that way."

The result of the vote was then announced as above recorded.

7028. On February 26, 1869, the Senate agreed, by a vote of yeas 39 nays 13 to the report of the committee of conference on the resolution (S. J. R. 8) proposing an amendment to the Constitution of the United States (suffrage amendment).

Mr. Garrett Davis, of Kentucky, made the point of order that as the Senate consisted of 74 Members a vote of 50 was necessary to constitute the two-thirds vote.

During the debate Mr. Lyman Trumbull, of Illinois, recalled that the same question was raised before the war, in the last years of Mr. Buchanan's administration when Mr. Breckenridge was presiding officer of the Senate, and after debate the Senate decided by a large vote that the two-thirds required was two-thirds of the Senators present, if a quorum.

A decision having been asked, the President pro tempore sustained the view enunciated by Mr. Trumbull, as in accordance with the precedents.

The SPEAKER. The question is on the passage of the joint resolution.

Mr. CLARK of Missouri. Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were --- yeas 318, nays 14, answered "present" 1, not voting 55, as follows:

YEAS --- 318

Adair	Driscoll, D. A.	James	Peters
Adamson	Driscoll, M. E.	Jamieson	Pickett
Aiken	Durey	Johnson, Ky.	Plumley
Alexander, Mo.	Dwight	Johnson, Ohio	Pou
Alexander, N. Y.	Edwards, Ga.	Jones	Pratt
Ames	Edwards, Ky.	Joyce	Pray
Ansberry	Ellis	Kahn	Prince
Anthony	Elvins	Keifer	Pujo
Ashbrook	Englebright	Keliher	Rainey
Austin	Esch	Kendall	Randell, Tex.
Barclay	Estopinal	Kennedy, Iowa	Ransdell, La.
Barnard	Ferris	Kinkaid, Nebr.	Rauch
Barnhart	Finley	Kinkead, N. J.	Reeder
Bartholdt	Fish	Kitchin	Reynolds
Bartlett, Ga.	Flood, Ga.	Knapp	Richardson
Bates	Floyd, Ark.	Knowland	Roberts
Beall, Tex.	Focht	Kopp	Robinson
Bell, Ga.	Foelker	Korbly	Rodenberg
Bennet, N. Y.	Foss	Kronmiller	Rothermel
Bennett, Ky.	Foster, Ill.	Kustermann	Rucker, Mo.
Boehne	Foster, Vt.	Lamb	Sabath
Booher	Foulkrod	Langham	Saunders
Borland	Fuller	Langley	Scott
Boutell	Gaines	Lassiter	Shackleford
Bowers	Gallagher	Latta	Sharp
Bradley	Gardner, Mich.	Law	Sheffield
Brantley	Gardner, N. J.	Lawrence	Sheppard
Broussard	Garner, Tex.	Lee	Simmons
Brownlow	Garrett	Lenroot	Sims
Burgess	Gill, Md.	Lever	Sisson
Burke, Pa.	Gill, Mo.	Lindbergh	Slayden
Burke, S. Dak.	Gillespie	Livingston	Slemp
Burleigh	Gillett	Lloyd	Small
Burleson	Gilmore	Longworth	Smith, Cal.
Burnett	Glass	Loud	Smith, Iowa
Butler	Godwin	Loudenslager	Smith, Mich.
Byrd	Goebel	Lowden	Smith, Tex.

Byrns	Goldfogle	Lundin	Snapp
Campbell	Good	McDermott	Sparkman
Candler	Gordon	McHenry	Spight
Cantrill	Graff	McKinlay, Cal.	Stafford
Capron	Graham, III.	McKinney	Stanley
Carlin	Grant	McLachlin, Cal.	Steenerson
Carter	Greene	McLaughlin, Mich.	Stephens, Tex.
Cassidy	Gregg	McMorran	Sterling
Chapman	Griggs	Macon	Stevens, Minn.
Clark, Fla.	Gronna	Madison	Sturgiss
Clark, Mo.	Guernsey	Maguire, Nebr.	Sulloway
Clayton	Hamer	Mann	Sulzer
Cline	Hamill	Martin, Colo.	Swasey
Cocks, N. Y.	Hamilton	Martin, S. Dak.	Tawney
Cole	Hamlin	Maynard	Taylor, Ala.
Collier	Hammond	Mays	Taylor, Colo.
Cook	Hanna	Miller, Kans.	Taylor, Ohio
Cooper, Pa.	Hardwick	Miller, Minn.	Tener
Cooper, Wis.	Hardy	Mondell	Thistlewood
Coudrey	Harrison	Moon, Pa.	Thomas, Ky.
Covington	Haugen	Moon, Tenn.	Thomas, N. C.
Cowles	Hawley	Moore, Tex.	Thomas, Ohio
Cox, Ind.	Hay	Morgan, Mo.	Tilson
Cox, Ohio	Hayes	Morgan, Okla.	Tirrell
Cravens	Heflin	Morrison	Tou Velle
Creager	Helm	Morse	Townsend
Crow	Henry, Tex.	Moss	Underwood
Cullop	Higgins	Murdock	Volstead
Currier	Hinshaw	Murphy	Vreeland
Davidson	Hobson	Needham	Wallace
Davis	Hollingsworth	Nelson	Wanger
Dawson	Houston	Nicholls	Washburn
De Armond	Howell, N. J.	Norris	Watkins
Denby	Howland	Nye	Webb
Dent	Hubbard, Iowa	O'Connell	Wickliffe
Denver	Hubbard, W. Va.	Oldfield	Wiley
Dickson, Miss.	Hughes, Ga.	Olmsted	Wilson, III.
Diekema	Hughes, N. J.	Padgett	Wood, N. J.
Dies	Hughes, W. Va.	Palmer, A. M.	Woods, Iowa
Dixon, Ind.	Hull, Iowa	Parker	Young, Mich.
Dodds	Hull, Tenn.	Parsons	The Speaker
Douglas	Humphrey, Wash.	Payne	
Draper	Humphreys, Miss.	Perkins	

NAYS --- 14

Allen	Fordney	McCall	Weeks
Barchfeld	Gardner, Mass.	McCreary	Wheeler
Calderhead	Henry, Conn.	Olcott	
Dalzell	Hill	Southwick	

ANSWERED "PRESENT" -- 1

Bartlett, Nev.

NOT VOTING --- 55

Anderson	Garner, Pa.	McGuire, Okla.	Rhinock
Andrus	Goulden	McKinley, III.	Riordan

Bingham	Graham, Pa.	Madden	Rucker, Colo.
Calder	Griest	Malby	Russell
Cary	Heald	Millington	Sherley
Conry	Hitchcock	Moore, Pa.	Sherwood
Craig	Howard	Morehead	Sperry
Crumpacker	Howell, Utah	Mudd	Talbott
Ellerbe	Huff	Page	Weisse
Fairchild	Johnson, S. C.	Palmer, H. W.	Willett
Fassett	Kennedy, Ohio	Patterson	Wilson, Pa.
Fitzgerald	Lafean	Pearre	Woodyard
Fornes	Lindsay	Poindexter	Young, N. Y.
Fowler	Lovering	Reid	

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So (two-thirds having voted in favor thereof) the joint resolution was passed.

Mr. FOSTER of Illinois. Mr. Speaker, I have a pair with the gentleman from Illinois [Mr. McKINLEY]. I am informed that if he were present he would vote "aye." I therefore will allow my vote to stand.

The result of the vote was then announced as above recorded.

References

[1] The Congressional Record, Volume 44, part 4, (61st Congress, first session), 1909; available at: [https://www.govinfo.gov/app/collection/crecb/_crecb/Volume%2044%20\(1909\)](https://www.govinfo.gov/app/collection/crecb/_crecb/Volume%2044%20(1909))

[2] United States Senate, 82nd Congress, 2nd session, Document No. 170, *The Constitution of the United States of America*, Edward S. Corwin, editor, Washington DC: United States Government Printing Office, 1953, pp. 318-321, 1191-1193