withheld at the source entitles her to a 2-percent discount against the 1943 tax to which it is credited. Since she is paid twice a month, and receives $62.50 each pay day, the amount withheld from her will be $0.30, or 1 percent of $116.60 for the last 6 months of 1943, which is approximately one-half of the 1943 liability. This would result in a 3-percent discount of $3.35. By prepaying the other half June 18, this stenographer could earn a 6-percent discount on the 1944 liability, which would be $0.60. Thus her total discount would be $3.35 plus $0.60, or $3.95. And in order to earn this small discount, she would have to pay in 1 year her full tax of $1,503 subject to other deductions—such as 5 percent for retirement, 10 percent for War bonds, and approximately $181 plus $10.25, or a total of $231.25.

A comparison with the $975 which this $2,000 stenographer would get, let us see what the man with the million dollars would do. His 1943 tax would be $554.616. His 1943 tax, including the net victory tax liability, would be $101.616. And in order to earn the same discount, he would have to earn a discount of $303.970.

The chairman of the Ways and Means Committee and other Members have inferred that there is no difference between the withholding provisions of my bill and of the Finance Committee bill. There is a vital difference in this respect: The withholding under the committee bill is applied in an arbitrary manner at the discretion of the employer. The withholding under my bill is credited in all instances of the internal revenue service. That is just as much difference between the two bills as between black and white in this respect. The only similarity is in the mechanical details of the withholding. Where the amount withheld is in the Finance Committee bill, the withholding is credited against wages. I hope that this difference is clear to the House. I do not believe anyone can approach this problem with an unbiased viewpoint without reaching the conclusion that my bill has the merit of simplicity and certainty.

Many economists and tax authorities have offered various proposals to get our taxes on a current, pay-as-you-go basis. I think it is an excellent idea to have employers withhold a small current tax from the pay-as-you-go tax. It is, however, difficult to see how this can be done.

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January 1 of one year and the date when his return was due in the following year. The words for some period was not subject to tax, even though he may have made a return of income before his death in advance of the due date (T. D. June 9, 1824, 2 Internal Revenue Record 61). This rule was not changed until 1987, when it was held that such income was subject to the tax and should be returned by the executor or administrator (T. D. Apr. 6, 1987, 2 Internal Revenue Record 106, T. D. Jan. 1, 1989, 7 Internal Revenue Record 59). See also Mandell v. Commissioner (C. C. D. Mass. 1898, 16 Fed. Cas. 570). The change was doubtless prompted by two important considerations: first, the taxes expired by definite limitation within a very few years; and, second, persons whose tax and been withheld at the source would already have paid their tax up to the date of death. At any rate, the change did not involve any modification in the concept of the income tax as an excise tax based on income.

After a lapse of about a quarter of a century Congress again passed an income-tax law. The act of 1894 (28 Stat. 509, 525; Aug. 27, 1894) provided for a tax to be levied, collected, and paid "from and after" January 1, 1895, "and until the 1st day of January 1900" (sec. 27). Like the Civil War acts it provided for a privilege tax and the income would be levied on the "income received in the preceding calendar year." Although the Supreme Court held this portion of the act to be unconstitutional, it is still recognized that the income tax was introduced under this law. It was said that a tax on income from business, property, and professions, trades, or vocations would be an excise tax; but the tax on investment income was held to be invalid because the Court regarded a tax based on the investment as a tax on the property itself and therefore a direct tax which was prohibited by the Constitution (Pollock v. Farmers' Loan and Trust Co., (1895), 157 U. S. 429, 158 U. S. 601). The Court held that the "tax on income is an excise tax within the meaning of the Constitution—exceeding in amount all other corporations subject to the tax. Such dividends were excepted not because they constituted investment income but because they were received in a form which had not been taxed. The sole test of taxability under the act was whether a corporation owned a corporation engaged in business. If so it was so engaged, then all the income (except dividends), including income from business and investment, was included in the tax. In addition, the Court held that the tax was measured by net income, and that income from nonliquid property or property not used in business was included in computing the tax. The tax, in short, did not prevent the tax from being considered an excise tax which did not require apportionment to State and local governments. (1911) 220 U. S. 107.

As far as the objections raised in the Pollock v. Farmers' Loan and Trust Co. case were concerned, the principle applied only to corporations under the act of 1899 with the approval of the Supreme Court might have been extended to individuals engaged in business. In that way investment income of most individuals as well as of corporations could have been brought under the terms of the act. And the field of income could have been completely covered by applying the rule that the ownership and management of investment property is an activity or privilege with respect to which Congress may impose an excise.

Having disposed of the questions before us, Congress chose to remove all doubt by an amendment to the Constitution embodying an income-surtax amendment proposed (S. J. Res. 40, 48 Stat. 164, 48 Cong. 1st sess.) was approved by a two-thirds vote of both Houses of Congress on July 31, 1913, a few days before the act of 1909 was approved by the States. As proposed the amendment was ratified and became effective as the sixteenth

There are still those who think that in this amendment Congress was taking the first step toward a new taxation of income as income itself, and that in any event the excise-tax principle should have been applied to rents and other investment income, as was done under the Civil War acts. In other words, the making and holding of investments while perhaps not a technically a business, is, at least, a kind of activity or privilege which can properly be subjected to an excise tax measured by reference to the income derived therefrom.

That investment income may be included as a part of the basis for measuring an excise tax was recognized by Congress in the act of August 5, 1912 (38 Stat. 112). This act provided that an investment corporation shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such corporation, which tax shall be equivalent to 1 percent upon the entire net income over and above $5,000 received by it from all sources during each year, exclusive of amounts received by it as dividends upon stock of other corporations to which the tax thereby imposed.

* * * Certain corporations, such as reli-

2 It must be remembered that the Court was not appraising economic theories, but was construing provisions of the Constitution. The first related to the power of Congress.

a To lay and collect taxes, duties, imposts, and excises, to pay the debts of the United States, and to provide for their defense and the common defense and general welfare of the United States. But all duties, taxes, and excises shall be uniform throughout the United States (art. I, sec. 8, subd. 1). The second was the provision that: No capitation or other direct tax shall be laid, unless in proportion to the enumeration herein before directed to be taken (art. I, sec. 9, subd. 4).

Thus the Constitution made a distinction between taxes and duties, duties, imposts, and excises on the other, which are subject to the proportional enumeration tax. The latter, whereas apportionment according to population was required only in the case of "taxes", would be applied generally regarded as "direct" were poll taxes and taxes on property. The only direct taxes which had been imposed by Congress prior to 1894 were taxes on lands, licenses, and slaves. See Foster and Abbott, A Treatise on the Federal Income Tax and the act of 1894, pp. 27 ff. The Court had no difficulty in classifying a tax on income as an excise tax. Its objection to the act of 1894 was doubtless because a "tax on rents was not in reality an income tax but was a direct tax on lands and buildings. (See Foster and Abbott, op. cit., pp. 117-118.)

3 That such is the case is clearly indicated by the recent provision in the Revenue Act of 1942 which allows deductions for expenses incurred in the management of investments (sec. 121). The retroactivity of this provision does not overcome the declaration of a new policy but the recognition of a fundamental principle.

amendment on February 24, 1913. (Secret-

ary of State's Certificate of Knapp, 1913. Stat. 1984.) The sixteenth amendment authorizes the taxation of income "from whatever source derived"—thus taking in investment income—"without apportionment among the several States." The Supreme Court has held that the sixteenth amendment did not extend the taxing power of the United States to new exempt subject to the same rate of taxes of taxes laid on income whether it be derived from one source or another. So the amendment made it possible to bring investment income within the scope of a general income-tax law, but did not change the character of the tax. It is still fundamentally an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax. It is the basis for determining the amount of tax.

The purpose of the income tax is to raise revenue from individuals directly. It is a method by which some of us make annual payments on account of the governmental expenses and the public debt of all of us. Contributions to a common fund to preserve the blessings of liberty. The great French statesman, Talleyrand, stated the fundamental principles of taxes.

"The revenues of the State are a portion of that which each subject gives of his property in order to enjoy the protection of the State."

"The income tax is now a permanent part of our tax structure and Congress may provide for such contributions, or payments, as it may think fit, on a uniform basis. Any tax is any year is the tax which is to provide revenue for that year. Strictly speaking, then, the "1912 income tax" was the tax payable in 1912; and the "1913 income tax" is the tax payable in 1913.

The amount of the payments for any year is determined by the Congress and is paid on a specified basis. Both of these factors are matters of legislation. Even if Congress would fix any rates which are not confiscatory and unreasonably harsh it is clear that Hilherto the previous year's income has been used as the basis. But the basis, as thus determined, may be changed at any time. In these matters of policy, the Constitution, both before and after the six-

teenth Amendment, has left to Congress practically complete discretion in framing the law. Under our existing Federal Income-tax law which has been operating for many years, the amount of income tax payable in any year is determined by the amount of income is based, not upon the income of the tax-

payers for the year of the preceding year. This method whereby


2 If the tax is computed on income as a tax on income as a specific fund the disappearance of the tax for the date of the current or the past period would prevent the collection of the tax. (See Foster and Abbott, op. cit., p. 65.)

3 If the income is merely the measure of the tax, it is clearly quite immaterial whether the income that is adopted as a measure is that of the past, or of the present, or of the future, provided only it is certain and ascertainable." (Foster and Abbott, op. cit., p. 67.)
a taxpayer must use the previous year's income as a base for the next year's tax payments results in many inequalities and injustices. When the tax rates were low and the exemptions very large these injustices were felt only in a small number of cases. Under greatly increased tax rates and reduced exemptions, the problems presented by this system have multiplied to a degree that not only works a great hardship on large numbers of taxpayers, but might readily prove very embarrassing to the Federal Treasury.

Few people realized how much money the government required for taxes last year's income until they made out their income-tax returns. There seems to be a prevailing impression that when you pay your quarterly income-tax payment everything is paid until the taxes for the next quarter are due, or at least they assume they are not in debt to the Federal Government. The impression is an erroneous one. The fact is that every citizen is indebted to the Federal Government for a year's tax until they are fully paid, and more than that, the taxpayer is indebted to the Federal Government for the accrued taxes due in the year in which he is paying income taxes.

The income-tax debt lasts most when sickness strikes, when a shift of employment reduces your salary or when you have lost your regular income. Under the present plan of taxation a man this year pays out of this year's income taxes which are due in the next, or last year's income. In 1944 he is required to pay a tax out of his 1944 income, but based upon his income for 1943. Under the present system it can truthfully be said that a dead man pays income taxes because his estate is liable for income taxes assessed for the year previous to his death. Such a situation is not only incorrect but it is mildly—no one in which we as a Nation can take pride.

It is true that a man does not have to die to face a similar abnormal position. Any man who at the end of the year has the misfortune to cease to receive an income due to an accident, illness, or other misfortune which might disqualify him from his earning capacity is, under our present law, compelled during the following year to pay an income tax on last year's income. Assessing an income tax to be paid in 1 year upon the income of a different year departs widely from the ability-to-pay principle of the income-tax law. It is based on the sound philosophy of ability to pay—that is, it was based on that sound philosophy in 1913, when it was first approved by our Nation. Theoretically, that principle holds true today, but from a practical point of view it is not certain that it will stand analysis. Demands on some taxes last taxes levied on dead men or those who have ceased to have income is a complete violation of such a principle. Ability to pay relates to the ability in the year in which the payment must be made and not to the condition in some other year. Theoretically, a man adds aside of his income for the tax that the law requires him to pay in the following year, and this may be good theory, but does not work out in practice. It was the intention of the framers of our income-tax law in 1913 to give tax payments to be made out of the next year's income. This is the practical effect of the law now all of the year 1943 to pay the assessment on 1942 income. It clearly indicates why Congress intends that the tax to be paid out of 1943 income, is 1 do not know of any better illustration of how setting the tax clock ahead 1 year will work than to refer to our distinguished chairman, who had come to Congress when the Congress passed the first income-tax law in 1913. He was a Member of the Congress at that time. Now this in mind, that if we had had the Rumple plan in 1914 and moved the tax clock up 1 year, he would not be 81 better off today, as far as tax money is concerned; he would not have gained a dollar and he will never gain a dollar until his income ceases or until his income decreases.

Mr. CARLSON of Kansas. I yield to the gentleman the yield call. Mr. DOUGHTON. If my tax is forgiven for 1942, when will it be paid? When will the Government ever get it? Mr. CARLSON of Kansas. The distinguished chairman paid his taxes in 1942. He paid them on the income of the year which ended in 1940. He paid his taxes in 1942 on his 1941 income. There is no income about that. He paid his tax this year. He does not gain and would not gain anything until his income decreases or ceases.

Mr. DOUGHTON. I did not pay my taxes in 1913 because it was not due until the next year.

Mr. CARLSON of Kansas. That is right.

Mr. DOUGHTON. It was not due. I do not ordinarily pay my debts until they are due, but I do try to pay them when they are due. I do not try to dodge them or run out on them. I pay them.

Mr. CARLSON of Kansas. The distinguished chairman knows that the taxes he paid in 1942 were based on his income for 1941. That was the standard they set up; that is what they determined he should pay a tax on. But he paid them out of 1941 income.

Mr. DOUGHTON. I had no notion of including the gentleman because he is a very fine and able member of this committee.

Mr. CARLSON of Kansas. I thank the gentleman for his compliment.

Mr. DOUGHTON. However, as long as the gentleman referred to me I think he ought to answer my question. If I get out of my 1942 tax, if it is shunted, when will I ever pay them? When would the Government get it?

Mr. CARLSON of Kansas. I yield to the gentleman the yield call. Mr. DOUGHTON. I challenge that statement absolutely. If I keep it in my pocket, I have benefited.

Mr. CARLSON of Kansas. The gentleman does not have any money in his pocket in this at all, because he still be paying tax in 1943 under the law.

Mr. DOUGHTON. The Government never gets it.

Mr. KNUTSON. Mr. Chairman, will the gentleman yield? Mr. CARLSON of Kansas. I yield to the gentleman from Minnesota.

Mr. KNUTSON. Will the gentleman in the House just what his taxes would be this year under existing law and what they would be under his bill? Mr. CARLSON of Kansas. I will make this statement because it seems so clear. If there is any man on this floor who thinks he is going to have some tax money left in his pocket if he votes for this bill of mine, he is just mistaken for this purpose. You don't get out of a dollar of tax. You pay the same tax in 1943 under my bill that you would have paid on the 1942 liability in 1943 under the present law. The only difference is that you would have paid on the 1942 liability under my bill. You are current instead of being 1 year behind.

Mr. GEARHART. Mr. Chairman, will the gentleman yield? Mr. CARLSON of Kansas. I yield to the gentleman from California.

Mr. GEARHART. You will pay the same tax under the existing law as you would under my bill of $10,000. You will pay the same tax under the existing law as you would under my bill of $1,000. You will pay the same tax under the existing law as you would under the $10,000.

Mr. CARLSON of Kansas. I do not agree with the gentleman at all. The gentleman can figure 2 years' income out of that. I wish I could, but I cannot. The fact is that a tax was collected out of these $12,000,000,000 in 1942 income and 1941 income.

Mr. GEARHART. You will have the income of 1942, in the income of 1943, the $10,000. You will not pay any tax on that. You will have the income of 1943, and you will pay the tax on that alone. That is 20,000 of income, but a tax on that alone.

Mr. CARLSON of Kansas. The gentleman and I have gone on this before. He forgets that in 1941 I paid my 1940 income. In 1943 I paid on my 1941 income. I did not skip any tax years. I did not gain anything, and I will not gain this year.

Mr. ANDRESEN. Mr. Chairman, will the gentleman yield? Mr. CARLSON of Kansas. I yield to the gentleman from Minnesota.

Mr. AUGUST II. ANDRESEN. The gentleman has referred to Congress either lowering or raising the rate. There is no reason why Congress cannot pass another tax bill in October of this year and raise the rate to 40 percent, is there?

Mr. CARLSON of Kansas. No; there is no reason why it cannot. We do it continually.

Miss SUMNER of Illinois. Mr. Chairman, will the gentleman yield?