

to be taxed under the bill? That is my understanding.

Mr. Hull. That is substantially as it is. Now, Mr. Chairman—

Mr. Phelan. Is there any provision in the case of life insurance companies whereby what is directly an overcharge shall not be taxed when it is returned to the policy holder?

Mr. Hull. I will say to the gentleman of course it is utterly impossible to write provisions in a general law that would specifically apply and govern every phase of the hundreds of thousands of different kinds of business transactions in the country. I would say, however, that companies have been paying dividends, according to their own admission, out of actual profits, in sums far greater than any kind of premium savings. If the companies persist in mixing the smaller amount of premium savings in these undisputed profits, then no distinction is made.

Mr. Phelan. That is what I meant. There is nothing which would prevent a life insurance company from figuring what is strictly an overcharge when they made their

premium, and deducting that, and not including that in their entire net earnings. There is nothing to prohibit that in this bill?

Mr. Hull. Well, to the extent that excess of premiums are collected and blended with profits, the same rule would apply as to tax.

Mr. Rogers. May I ask the gentleman a question?

Mr. Hull. Yes.

Mr. Rogers. If I understand the provision of paragraph B, on page 134, correctly, it defines that income as including gains, profits, and incomes, among other things, from sales and dealings in property. Now suppose a man should buy 100 shares in one company and 100 shares in another company, and at the end of the fiscal year he should find one of that block had gone up 20 points and the other had gone down 20 points, do I understand he would have to pay on the profit he had made without receiving any benefit on the loss he had sustained?

Mr. Hull. Where he is conducting two separate businesses, or where he is conducting one business con-

would deduct from his aggregate profits the losses that were incident to the business out of which the profits grew.

Mr. Rogers. Here, for example, we have a man investing in the securities of two entirely distinct companies, one of which goes up in value and the other goes down. I can not read in the law anything that takes care of the man and gives him a set-off on the securities on which he has been at a disadvantage.

Mr. Hull. I sought to explain that situation briefly a while ago. Of course it is impossible to take up all the different and countless illustrations that any gentleman might suggest and dispose of them in short order. But I undertook to say that the losses and the expenses that are ordinarily considered relate to those growing out of the particular business which secures to the individual his income, or from which his income is derived. Of course any loss foreign to that, or any expense entirely different from that, would not be considered as a part of his trading loss.

Mr. Rogers. Does the gentleman think that in the case I have put there would be an allowance for the deficit which the individual had sustained in the less fortunate security?

Mr. Hull. The gentleman means in case of a broker who invests, or just an individual not regularly in the business?

Mr. Rogers. No. Suppose the gentleman or myself or anybody should invest in 100 shares of one security and in 100 shares of another security and one goes up and the other goes down. Under the act, unquestionably, other things being sufficiently high, he has to pay an income tax on the fortunate security.

Mr. Hull. Yes; if he is simply making a casual investment of that kind now and then, or here and there, I think he would report his gains for taxable purposes, and probably would not be allowed for his loss, for it would not be a trade loss.

Mr. Rogers. That might, of course, be a very important matter for a man who was doing a good deal of buying and selling in the stock market in a perfectly proper way, not as an operator or speculator, but as a man who buys when an opportunity presents and sells when he sees another opportunity.

Mr. Hull. The question would arise whether he is making that a business. There are ample adjudications as to all these kinds of transactions, which will make it easy, I think, for the secretary of the treasury to make the taxpayers acquainted with their exact application and relation to the tax.

Mr. Mann. Another question occurs to me right there, if the gentleman will permit. Perhaps the gentleman can answer. I do not criticize him if he can not. Suppose a man bought a piece of property some years ago for a small price and sells it during this year after this bill takes effect, or even this year before this bill takes effect. Does he have to account for the entire profits as income based upon the original cost, although the property last year may have been worth as much as he sells it for this year?

Mr. Hull. Of course that raises a very broad field of consideration. The laws have been construed heretofore to the effect that the taxpayer is expected to return the profits that accrued to him during the calendar year or the taxable year. Profits on the sales of property which was purchased in connection with the business which a man is carrying on from year to year would be reported for taxation for the year of their accrual, such as any regular trade or business, even though the property was purchased during the preceding years. As to abstract or occasional

cases, such as the gentleman suggests, apart from that class that I have described, sometimes each one might depend upon its own state of facts. But at any rate the entire profits that accrue during the year in connection with trade or commerce or business regularly carried on from year to year, no matter when the property was purchased, would be reported.

Mr. Mann. The gentleman can readily see that that question is certain to arise in many cases.

Mr. Hull. Yes. I may say to the gentleman that at present, as the corporation-tax laws are enforced, if

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