United States and indicates that these provisions are intended to remedy this situation. (House Report No. 1450, ¶ B–2 on p. 14 and ¶ D–1(b) on p. 27.) The climate of the Bill is thus definitely one of amelioration, of relief from inequities and the removal of discriminatory treatment. It is clearly *not* intended as a revenue measure since it is not expected to increase annual revenues to any significant degree. (Report No. 1450, p. 6.)

2. "The equity of the tax treatment accorded foreign investment in the United States" is obviously *not* increased by provisions which increase the tax burdens imposed on such investment by as much as 80 or 90 per cent. The existing provisions of Code Sec. 881, in imposing a tax at the flat rate of 30% on the gross amount of a foreign taxpayer's income, is already imposing a far heavier tax burden than most domestic taxpayers have to bear. The only grounds on which such a tax on gross income can reasonably be justified are: (a) the purely pragmatic ground that such a tax is readily collectible at the source, reducing to a minimum the administrative difficulties inherent in the collection of taxes from alien taxpayers whose persons and business affairs are physically outside the territorial jurisdiction of the United States and (b) the more equitable argument that the tax is imposed only on such types of income as interest, dividends, rents, royalties and the like, and therefore, in most cases at least, reaches only the income derived from resources not tied up in the current operations of the taxpayer's business, and does not really impose a heavier burden than most domestic taxpayers would have to bear on the same types of income. (See Appendix for a note on the legislative history of Code Secs. 881 and 882.)

The first of these grounds for justifying a 30% gross income tax on foreign taxpayers ceases to have any force, of course, in the case of a taxpayer actively engaged in business in the United States. Such a taxpayer is just as completely subject to the jurisdiction of the United States as a domestic taxpayer insofar as the filing and examination of tax returns, the collection of tax deficiencies and all the other apparatus of income tax administration are concerned.

The validity of the second argument fails with the first, for once it becomes administratively feasible to require complete tax returns, there is no longer any necessity or excuse for treating a foreign taxpayer's income from U.S. sources in a sort of vacuum, without reference to the nature of the taxpayer's over-all business or other income-producing activities. It can then be determined with adequate precision whether and to what extent there are expenses or other deductions which should fairly be attributed to the taxpayer's U.S. income and there ceases to be any reason at all for taxing the foreign taxpayer at any different rates or by any different methods than the domestic taxpayer.

These principals, which lie at the root of the distinction made by the existing provisions of Code Secs. 881 and 882 between the taxation of corporations which do not conduct any trade or business in the United States and those which do, may seem too self-evident to be stated, but the Bill, by dividing the income of a foreign corporation carrying on business in the United States into two classes depending on whether or not such income is deemed effectively connected with the conduct of the U.S. business and taxing the income not so connected under Sec. 881 at 30% of the gross amount, violates these principals and definitely discriminates against the foreign taxpayer engaged in business here as compared with the domestic taxpayer.

Furthermore, when the foreign taxpayer in question is an ordinary commercial bank operating branches in the United States, the effect of the Bill would be absolutely confiscatory, as becomes obvious when one considers the case of Banco de Ponce, a quite typical commercial bank. More than 90% of its entire gross income consists of interest. Its net profit before taxes from all of its operations everywhere averages far less than 30% of its entire gross income. To stay in business it obviously must have some margin of profit left after taxes, which means that on the average the effective rate of tax on all of its interest income can be no more than a small fraction of 30% of the gross amount of the interest received. Why, then, should it invest any of its funds in securities subject to a 30% gross income tax if it can possibly avoid it? To ask the question is to answer it.

3. Put another way, the money which a bank invests does not constitute mere surplus or excess funds that would otherwise lie idle; for the most part it is depositor's money, obtained only at substantial cost in interest paid and banking services performed. If the bank's interest income is taxed in an amount greater than the excess of such income over the cost, in interest and other expense, of the money invested to produce it, the result is confiscation. Domestic banks do not