

gress and without proper concern for what is in the law.

The whole question of capital gains is a very complicated one. It is my judgment that the amendment would have very little effect, although it is possible that the allowance of transfers of this kind may have the effect of freeing up investments. Insofar as we have a record, it indicates more revenue will be collected, through permitting that kind of transfer, than will be collected if we do not permit it.

All these securities can be held forever. The only possibility of collecting on them may be in estate taxes. The transfer of them to a mutual fund does

[P. 25344]

increase the likelihood that they will be traded, that capital gains will be realized, and that taxes will be paid, more than if we do not allow the transfers. I do not concur in the argument that the proposal in the bill is such a great and powerful one it will accomplish everything that it is indicated could be accomplished, for example, by the adoption of an increased depletion allowance on minerals. I cannot claim that much for it. I do not think it will do any harm. I think it is consistent with the law, and that it is in keeping with what I consider to be the responsibility of Congress: that is, to insist that the law be rewritten, if it needs to be rewritten, by Congress itself and not interpreted, as I consider somewhat arbitrarily, by the Treasury Department of the Federal Government.

Mr. GORE. Mr. President, the majority of the committee has seen fit to load a worthwhile bill with many unworthy amendments. Perhaps the most unworthy of all is the provision now under debate. I concur in the views expressed by the senior Senator from Delaware with respect to the pending amendment. If it remains in the bill, Mr. President, it will operate as an invitation for other special interest amendments, which we shall anticipate, from the floor.

I shall not detain the Senate further. I do not claim the responsibility of being the guardian of anyone's conscience except mine, but I firmly believe this provision should be stricken from the bill.

Mr. LONG of Louisiana. Mr. President, I have no interest whatever in this amendment, one way or the other. I believe in the committee I voted against the amendment. But I do believe the RECORD should reflect what the facts are.

Until July 14 of this year, the Treasury Department interpreted the law as this amendment would have it.

If Senators will read the provision before us, I am sure that they will agree that it is consistent with the law as it is today. But now Treasury says that they think this is something of a loophole, and they want to close it by a Treasury regulation which, in the point of view of

many lawyers, is contrary to existing law. It is contended that, if the law is to be changed, we ought to change it. We should look at it, we should study it, we should legislate; the Treasury does not have the job of legislating, but has the job of administering the laws.

As far as I am concerned, the Senate may do whatever it wishes to do with the provision in question, but this is how the Treasury permitted the law to be interpreted until July 14 of this year.

It is a matter of whether we want the Treasury to change the law, or whether we want to change it. To me, it is not a matter of great moment one way or the other.

But there is no doubt about the fact that most lawyers would tell you that what this amendment says is what the law actually is today. The law does not say that this particular provision applies to some transfers and not others. It makes no distinction whatsoever. But the Treasury thinks it is something of a loophole, and should be closed. The question is: Is that something upon which Congress should legislate, or something on which the Treasury should take charge itself, and proceed to change the law?

Mr. WILLIAMS of Delaware. Mr. President, what the Treasury has ruled is that the existing law does not permit the tax-free exchange of these securities. This amendment in the committee bill proposes to spell out specifically that they must allow such tax exemption. If the committee amendment is deleted the law will continue to be interpreted as not allowing a tax-free exchange, and the Treasury has so given notice. The law is clear and will be interpreted so that such taxpayers cannot get their tax exemption on such an exchange of securities.

If there be those who feel that there should be a tax-free exchange of securities let them amend the existing law. But existing law now prohibits it, and the committee amendment would legalize it. The question is very simple. As the Senator from Tennessee has pointed out, my amendment by all means should be accepted, and this section should be deleted from the bill. This would be a wide-open loophole, and I would hate to see it extended and fixed into permanent law.

Mr. GORE. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. GORE. Some Senators have asked questions as to the meaning of this provision in the bill. Would the Senator be willing to state specifically that it would permit the exchange of an asset which has had great appreciation in value for another asset, and another type of asset, without recognition of the gain and without tax consequence?

Mr. WILLIAMS of Delaware. The